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Major Research Paper

The Fate of North American Integration: Security, Trade, and Regional Governance

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**Abstract:**

International cooperation through regional organizations or arrangements has become increasingly common in order for states to adequately deal with the globalizing effects of economic openness and liberalization. Regional integration agreements have developed all around the world and they continue to deepen as goods, services, and people fluidly move across political and territorial boundaries. Although regionalization continues to widen and deepen in other places of the world, North American integration remains stagnant since the peak of NAFTA in 2001. With heightened transnational security and global economic crisis, the three amigos have opted for a dual-bilateral approach rather than a trilateral one, which not only fails to deepen regional integration, but also erodes and dismantles the trilateral accomplishments of NAFTA. This paper will argue that North American integration has not only stagnated, but has ultimately declined due to institutional weakness and the heightened U.S. security agenda following 9/11. Through the examination of the *Border Action Plan* and the *Merida Initiative*, as well as a comparative analysis of Europe's regional model, this paper will show that North American integration has not deepened, but rather has receded in the form of North American dependency, and without adequate political commitment, North America will remain in a dual-bilateral relationship.

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## The Fate of North American Integration: Security, Trade, and Regional Governance

### **I. Introduction**

Globalization is the phenomenon of increased interdependence and interconnectivity of the world through the integration of different political, economic, technological, and cultural systems. As the effects of this phenomenon continue to shrink the globe, economic integration has become an inevitable practice in which states must reduce their political boundaries by facilitating the movements of goods, services, and capital in order to create greater economic growth.<sup>1</sup> With the emergence of global interconnectivity and economic openness, the regulatory apparatus of a single state has become increasingly insufficient in managing cross-border movements;<sup>2</sup> therefore, states have begun to enter into multilateral organizations and regional arrangements in order to fill in the gaps of governance caused by globalization.

At the end of World War II, the international community sought to create a system that would facilitate economic interdependence and global growth in order to prevent the detrimental effects of protectionism. The Bretton Woods system established a multilateral tariff reduction agreement (General Agreement on Trade and Tariffs, GATT, which would be later known as the World Trade Organization, WTO), and two financial institutions (International Monetary Fund, IMF, and the World Bank), which were designed to provide monetary assistance to developing countries and during times of economic crises.<sup>3</sup> Although, Bretton Woods saw relative success in the post-war era, the

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<sup>1</sup> Wolf, M. (2004). *Why Globalization Works*. London: Yale University Press. pp. 14

<sup>2</sup> Pronk, J. (1998). "Globalization and Regionalization" in *Regional Integration and Multilateral Cooperation in a Global Economy*. 25-32. Ed. Teunissen, J.J. The Hague: Forum on Debt and Development (FONDAD). pp.29

<sup>3</sup> Keating, Tom. 2002. *The Limits of Multilateralism: Canada's Response to a Changing Global Economy in Canada and World Order: The Multilateralist Tradition in Canadian Foreign Policy*. Toronto: Oxford University Press. pp. 121

system was eventually dismantled in the 1970s following a series of economic shocks and soaring oil prices.<sup>4</sup> These challenges revealed that the Bretton Woods regime did not have the capacity to mitigate economic volatility, and that the benefits gained from the system were not sufficient enough to motivate nation-states to relinquish some of their sovereignty and push forward the multilateral agenda. Thus, nation-states began to shift towards regional cooperation as an alternative means to global economic governance.<sup>5</sup>

Regional integration is a dynamic process in which a set of countries are willing to share or unify their governing responsibilities in order to manage the liberalizing effects of globalization.<sup>6</sup> Due to the locational proximity of their partners, existing commercial and transportation infrastructure, as well as the limited membership, states are able to promote economic development more efficiently and equitably within a regional framework rather than a multilateral one.<sup>7</sup> Regionalization provides national governments with the opportunity to work within their geographical neighbourhood either through increased intergovernmental cooperation or transnational institutions. Although, regional integration arrangements generate a wide range of mutual benefits among its member states, including lower transaction costs and access to neighbouring markets, the success and sustainability of regional cooperation remains highly dependent on the degree of political autonomy that member states are willing to give up.<sup>8</sup>

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<sup>4</sup> Aggarwal, V. (2001) "Economics: International Trade" in *Managing Global Issues: Lessons Learned*. 238-280. Ed. Simons, P. & de Jonge Oudraat, C. Washington, D.C.: The Carnegie Endowment for International Peace. pp. 249

<sup>5</sup> Nakagawa, J. (2011). *Multilateralism and Regional Liberalism in Global Economic Governance*. London: Routledge. pp. 2

<sup>6</sup> Sommer, J. (2003). "Why Regional Integration Benefits". *Building Strong Economies Depends on You and Me*. Caribbean Islands: Eastern Caribbean Central Bank (ECCB).

<sup>7</sup> Pronk 29

<sup>8</sup> Genna, G. (2011). "Does North America Have the Right Stuff? An Analysis of Compatibility and the Potential Deepening of North American Integration" *Politics & Polity* 39(1). 141-165 pp.143

This paper will specifically focus on the trends in North American integration. North America is a remarkably unique case of regional integration with the membership of world's sole superpower (the United States, US), a middle power reliant on its small-market economy (Canada), and an emerging country riddled with poverty and conflict (Mexico). Even with its distinctive and complex character, the three amigos established NAFTA in order to reap the economic benefits of globalization. Throughout the 1990s, NAFTA created considerable economic growth and development for all three countries in which trade and investment reached unprecedented levels as a result of integrated industry sectors, harmonized rules and regulations that reduced transaction costs of cross-border commercial goods.<sup>9</sup> These positive economic trends, however, reached a peak in 2001 following the 9/11 terrorist attacks in the U.S. The focus of North American regionalization began to shift from economic growth and market liberalization towards an agenda concentrated on security and border management. The paradigm of the North American region began to shift from trilateralism and equity among its members, to “dual-bilateralism” in which the U.S. security agenda determined the extent of North American integration, and how it ought to be implemented and governed.<sup>10</sup>

In the post-9/11 era, the North American integration agenda sought to create new governance mechanisms, through dual-bilateralism, in order to mitigate the obstructive effects of the “thickening” U.S. border on the continent's economy;<sup>11</sup> however, these integration projects (like the Security and Prosperity Partnership, SPP, the Beyond the

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<sup>9</sup> Pastor, R. (2010). “Should Canada, Mexico, and the United States Replace Two Dysfunctional Bilateral Relationships With a North American Community?” Presented at the *Conference on North American Futures: Canadian and U.S. Perspectives on March 12<sup>th</sup>-13<sup>th</sup>, 2010*. pp. 4

<sup>10</sup> Ibid.

<sup>11</sup> Anderson, G. (2012). “Securitization and Sovereignty in Post-9/11 North America”. *Review of International Political Economy*. 19(3). 1-31 pp. 21

Border Plan, and the Merida Initiative) have failed to mollify the negative economic effects of increased border securitization, and has generated greater power disparities among the three amigos (particularly concerning the inequitable pooling of sovereignty). Although the post-9/11 North America agenda has widened to manage emergent security issues, regional governance has not advanced in terms of strengthening trilateral cooperation and transnational institutions needed to adequately cope with the effects of globalization.<sup>12</sup> Why has North America integration remained stagnant since the peak of NAFTA in 2001? What are the primary factors that sustain the shallow governance structure of North America, and what are the barriers that limit North American regionalization from moving forward? This paper will argue that North American integration has not only stagnated, but has ultimately declined due to institutional weakness and the heightened U.S. security agenda following 9/11. Through the examination of the *Beyond the Border Plan* and the *Merida Initiative*, as well as a comparative analysis of Europe's regional model, this paper will show that North American integration has not deepened, but rather has receded in the form of North American dependency, and without adequate political commitment, North America will remain in a dual-bilateral relationship.

## **II. The Rise of Regional Integration and Global Economic Governance**

### *A. The Shift from Multilateralism to Regionalization*

Following the global shock of the Great Depression and World War II, the postwar international community sought to create an multilateral system based on

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<sup>12</sup> Ayres, J. & MacDonald, L. (2006). "Deep Integration and Shallow Governance: The Limits of Civil Society Engagement across North America" *Policy and Society*. 25(3). 23-42 pp. 23

interdependence. By reducing trade barriers and opening the global economy, interdependence would ensure economic security in which the practice of protectionism and war would essentially be politically and economically inconceivable. The Bretton Woods system was established in 1945 and created three organizations in order to encourage the elimination of trade barriers and tariffs, as well as create economic stability worldwide.<sup>13</sup> Bretton Woods also established a multilateral monetary system, the Gold Standard, in which currencies were tied to the U.S. dollar (pegged to gold at a rate of \$35/ounce).<sup>14</sup> By having countries adopt an international monetary policy, Bretton Woods sought to fix the exchange rate in order to correct imbalances of payment, which would stabilize the economy and facilitate greater economic growth and globalization. Bretton Woods saw relative success in the postwar period, particularly in terms of global trade and tariff reduction, in which the Geneva Round, Dillon Round, and more notably the Kennedy Round and Tokyo Round established tariff concessions worth over US\$345 billion worldwide.<sup>15</sup> GATT also created a number of “non-discriminatory standards” to guarantee free and fair trade and competition.<sup>16</sup> These standards included national treatment, which states that all countries must be treated in the same way as domestic companies are treated,<sup>17</sup> most-favoured nation treatment that maintains that all countries

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<sup>13</sup> Dieter, H. (2009). “The Decline of Global Economic Governance and the Role for Transatlantic Powers.” *Business and Politics*. 11(3). 1-23 pp. 11

<sup>14</sup> Lipsey, Richard G. (1975). *An introduction to positive economics* (fourth ed.). Weidenfeld & Nicolson. pp. 683–702

<sup>15</sup> BBC News. (February 2012). “Timeline: World Trade Organization” *BBC News*. Retrieved on June 20<sup>th</sup>, 2012 from <[http://news.bbc.co.uk/2/hi/europe/country\\_profiles/2430089.stm](http://news.bbc.co.uk/2/hi/europe/country_profiles/2430089.stm)>.

<sup>16</sup> Dhar, B., & Chaturvedi, S. (1998). Multilateral Agreement on Investment: An Analysis. *Economic and Political Weekly*, 33(15), 837-849. pp. 837

<sup>17</sup> Khor, M. (1996). The WTO and Foreign Investment: Implications and Alternatives for Developing Countries. *Development in Practice*, 6(4), 304-314. pp, 305

must receive equal trade advantages,<sup>18</sup> and antidumping standards, which mitigate firms from selling goods at below-market prices in order to drive out competitors.<sup>19</sup>

Multilateralism appeared to be working; however, the accomplishments of Bretton Woods were short-lived. At the beginning of the 1970s, the postwar economic order began to collapse due to a series of economic shocks. The first to come was the ‘Nixon Shock’ when President Nixon unpegged the U.S. dollar from the Gold Standard,<sup>20</sup> due to high inflation rates that resulted from the financial burden of the Vietnam War. Nixon’s decision to float the U.S. exchange rate “threw the system of world trade into confusion.”<sup>21</sup> It depreciated each country’s currency and created financial volatility.<sup>22</sup> The Nixon Shocks ultimately led to the rise in oil prices in the 1970s. Because oil was priced in dollars, the depreciation of the U.S. dollar meant that oil producers were receiving less real income; thus, the Organization of Petroleum Exporting Countries (OPEC) chose to price a barrel of oil against gold resulting in a sharp increase to oil prices for importing countries.<sup>23</sup> The 1970s was ridden with crises, and ultimately showed the weaknesses of the multilateral system. Bretton Woods was not able to deter President Nixon’s unilateral decision to depreciate the U.S. dollar, and was also unable to withstand economic crisis and instability, which was the sole purpose of its initial design. It should be noted that although Bretton Woods collapsed in the 1970s, GATT continued to move

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<sup>18</sup> Ibid.

<sup>19</sup> Mankiw, G. & Swagel, P. (2005). “Antidumping: The Third Rail of Trade Policy” *Foreign Affairs*. 84(4). pp. 107.

<sup>20</sup> Helleiner, E., Pauly, L. , et al (2005). *Global Political Economy*. Ed. John Ravehill. London: Oxford University Press. pp. 7–15, 154, 177–204.

<sup>21</sup> Hewitt, T. (2000). “Half a Century of Development” in *Poverty and Development into the 21<sup>st</sup> Century*. 289-308. Ed. Allen, T. & Thomas, A. Oxford: The Open University. pp. 297

<sup>22</sup> Krugman, P. (1996). “The Gold Bug Variations” Retrieved on June 15<sup>th</sup>, 2012 from <<http://www.pkarchive.org/cranks/goldbug.html>>.

<sup>23</sup> Hammes, D. & Wills, D. (2005). "Black Gold: The End of Bretton Woods and the Oil-Price Shocks of the 1970s," *The Independent Review* 9(4). 501-511. pp. 501–511.

forward in regards to trade liberalization and tariff reduction. The success of GATT was primarily due its technical and depoliticized nature, “making the clear distinction between low politics and high politics.”<sup>24</sup> This distinction will be examined later on in this paper.

The limited success and inefficiency of the multilateral system opened the door for states to establish regional arrangements in order to push for greater economic liberalization and integration. Regionalization offered states a middle way in which it not only encouraged collective governance and cooperation, but it also preserved the notion of state sovereignty and national control. It was essentially pseudo-multilateralism in that states, through regional integration arrangements, only partially relinquished their sovereignty to a select number of countries or partners, rather than succumb to large global institutions.<sup>25</sup> It should be noted that there are different dimensions and “degrees of ‘regionness’ depending on the regional dynamics” (such as differences in culture, economic structure, history),<sup>26</sup> and range from preferential trade agreements (such as NAFTA), to monetary and economic unions (such as the EU), or to political unions.<sup>27</sup> In general, regional integration arrangements generate a wide range of benefits that help facilitate the massive expansion of economic activity across borders.

### *B. The Advantages of Regional Integration Arrangements*

With increased harmonization of trade regulations, the geographical proximity of countries is the primary driver of increased intra-regional trade. Short distances and

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<sup>24</sup> Lang, A. (2011). *World Trade Law After Neoliberalism: Reimagining the Global Economic Order*. London: Oxford University Press. pp. 42

<sup>25</sup> Pronk 29

<sup>26</sup> Hettne, B. (1998) “The New Regionalism: Security and Development” in *Regional Integration and Multilateral Cooperation in a Global Economy*. 199-220. Ed. Teunissen, J.J. The Hague: Forum on Debt and Development (FONDAD). 212

<sup>27</sup> Anderson (2012) 4

shared transportation infrastructure among states (including highways and railway systems) have significantly reduced transaction costs.<sup>28</sup> The political and physical closeness of firms to their suppliers as well as their customers created a favourable environment for broader free trade as well as access to new markets.<sup>29</sup> This has been primarily evident in Europe in which border and customs patrols between European Union states have been eliminated to facilitate the movement of goods, services, and capital across state boundaries.

Economic stability is another key advantage of regionalization. As the economies of member states become increasingly coordinated and integrated, it strengthens the ability of countries to better manage and cope with negative economic and financial crises. As seen with the current European economic crisis, economic interdependence can cause countries to become more vulnerable to shocks (the ‘one catches a cold, the other catches the flu’ notion); therefore, economic crises are better managed with a multitude of states in order to create regional solutions that may mitigate future vulnerability of all member states.<sup>30</sup> This has been seen in Latin America with the Union of South American Nations (UNASUR), in which a crisis management mechanism was created to bring stability back to the region through collective action. Although, the mechanism has only been used to re-stabilize the region following political crisis in Bolivia thus far, the mechanism was designed to manage potential economic crises as well.<sup>31</sup>

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<sup>28</sup> Sommer 3

<sup>29</sup> Pronk 29

<sup>30</sup> Europa. (May 2010). “Mastering Economic Interdependence: Commission proposes reinforced governance in the EU.” *Europa Press Releases Rapid*. Retrieved on June 3<sup>rd</sup>, 2012 from <<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/561>>.

<sup>31</sup> Sanahuja, J. (2012). “Post-liberal Regionalism in South America: The Case of UNASUR” *EUI Working Papers 2012*. No. 5. Robert Schuman Centre for Advanced Studies. Florence: European University Institute. pp. 20

Increased regionalization greatly benefits smaller states in which equitable integration agreements provide them with “increased bargaining power.” Through greater bargaining power, smaller states are able to put in place mechanisms that will ensure greater economic development and social cohesion within the region<sup>32</sup> Regional development has been a key aspect to regionalization in that it increases “the efficiency of the total regional economy [that will] improve the region’s collective position in the global economy.”<sup>33</sup> The European Regional Development Fund (ERDF), the European Social Fund (ESF), and the Cohesion Fund have helped with the development of the region. By providing social cohesion funds to poorer countries (including Ireland, Portugal, and Spain), not only has the standard of living in these countries improved, but they have also become equivalent to the rest of the region.<sup>34</sup>

Although, in history, states within the same region have collaborated with one another politically and economically, regional *integration* is a rather new phenomenon that essentially began following World War II with the creation of the European Coal and Steel Community (ECSC) in 1952 and the Association of Southeast Asian Nations (ASEAN) later in 1967. These two organizations were created primarily to improve economic relations as well as to protect the peace and stability of the regions following the war. Although the ECSC and ASEAN did not result from the failures of multilateralism, membership and integrated policy areas expanded within these

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<sup>32</sup> Pronk 29

<sup>33</sup> Oman, C. (1998). “The Policy Challenges of Globalization and Regionalization” in *Regional Integration and Multilateral Cooperation in a Global Economy*. 221-229. Ed. Teunissen, J.J. The Hague: Forum on Debt and Development (FONDAD). pp. 222

<sup>34</sup> Malamud, A. & Schmitter, P. (2006) “The Experience of European Integration and the Potential for Integration in Mercosur” Prepared for 2006 *Joint Sessions of Workshops of the European Consortium for Political Research (ECPR)*, April 2006, Nicosia, Cyprus. pp. 13

organizations following the fall of the Bretton Woods system.<sup>35</sup> In the aftermath of the Cold War, a renewed vigour for regional integration took hold.<sup>36</sup> With the end of the bipolar international system, economic globalization and regional integration saw a period of accelerated growth. The European Union (EU) achieved unprecedented success with the introduction of a single European market and single currency;<sup>37</sup> the South Common Market (MERCOSUR) was established among Latin American countries; and the North American Free Trade Agreement (NAFTA) was signed by the three amigos.<sup>38</sup>

It should be noted that although, at times, regionalization appears to be at odds with multilateralism, they do not oppose one another, “rather, it is a means to secure the regional benefits of the globalization process.”<sup>39</sup> According to Jan Pronk, a “workable system of international governance does not and cannot exist solely on the basis of global institutions in that regional arrangements are necessary complements to – and building blocks for – a system of global governance.”<sup>40</sup>

### **III. The North American Integration Model**

The regionalization of North America is a truly unique and complex circumstance in which its membership includes the world’s sole political and economic superpower in the U.S., its gentler Canadian neighbour to the North, and emerging Mexico to the South. Although, all regional organizations elude diversity in its members,

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<sup>35</sup> European Navigator. (2007). The First Enlargement. *The European Navigator*. Retrieved on August 16<sup>th</sup>, 2012 from <www.ena.lu>

<sup>36</sup> Anderson (2012) 1

<sup>37</sup> Wenger, A. & Zimmerman, D. (2003). *International Relations: From the Cold War to the Globalized World*. Boulder: Lynne Rienner Publishers. pp. 2

<sup>38</sup> Anderson (2012) 1

<sup>39</sup> Hettne 34

<sup>40</sup> Pronk 20

it would be safe to say that no other regional arrangement in the world has similar dynamics as those eminent in North America. The nature of North American integration ebbs and flows between periods of trilateralism, and periods of bilateralism.

#### *A. Before NAFTA*

Prior to NAFTA, North America was characterized by bilateralism in which Mexico-Canada relations were essentially non-existent; therefore, the North American community consisted of U.S.-Mexico relations and U.S.-Canada relations.<sup>41</sup>

In the 1960s, Mexico began to experience increasing cross-border economic integration with the U.S. primarily “in the form of migration, both legal and unauthorized, to fill labour shortages [in the agricultural industry], and also as a result of the success of the 1965 Border Industrialization Program that boosted employment in the maquiladora industries.”<sup>42</sup> Maquiladoras are manufacturing assembly factories, many of which are located along the U.S.-Mexico border. Similar to China today, maquiladoras were extremely attractive to U.S. firms due to the availability of cheap labour and relaxed labour and environmental legislation.<sup>43</sup> Maquiladora industries “rapidly expanded both geographically and economically, and by 1985, had become Mexico’s second largest source of income from foreign exports, behind its petroleum industry.”<sup>44</sup> Although, in the 1970s, Mexico sought to open its economic relations to other countries in order to minimize its economic dependence on the U.S., in 1990, it formally asked the U.S. to

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<sup>41</sup> Pastor (2010) 9

<sup>42</sup> Capling, A. & Nossal, K.R. (2009). “The Contradictions of Regionalism in North America” *Review of International Studies*. 35(2). 147-167 pp.152

<sup>43</sup> Bolterstein, E. (1999). “Environment Justice Case Study: Maquiladora Workers and Border Issues.” *University of Michigan*. Retrieved on June 6<sup>th</sup>, 2012 from <<http://www.umich.edu/~snre492/Jones/maquiladora.htm>>.

<sup>44</sup> Stoddard, E. R. (1987). *Maquila: Assembly Plants in Northern Mexico*. Austin: Texas University Press. pp. 2.

begin free trade negotiations due to the influx of cross-border movements of manufactured goods and Mexico's desire to attract FDI and liberalize its financial markets.<sup>45</sup> For the U.S., the idea of establishing such an agreement was appealing in that “not only would comprehensive free trade bring [an influx of economic] benefits, but increasing Mexican wealth could solve a persistent problem in Mexican-U.S. bilateral relationship: large-scale illegal migration;” therefore the U.S. logic was, “if Mexicans grew wealthier as a result of free trade, fewer of them would seek to migrate” north of the border.<sup>46</sup>

Similar to Mexico, Canada-U.S. economic relations took off in the 1960s, also within the manufacturing industry. The Auto Pact of 1965 was the first bilateral economic agreement between the two, which ultimately paved the way for Canada's robust auto sector. The Auto Pact strengthened Canada's “global competitiveness” by diversifying its resource-based economy, as well as raised the country's standard of living.<sup>47</sup> Following the global economic shocks in the 1970s, Canada too, began to see the economic risks that were involved in its overreliance of the U.S. market and began to search for alternative markets. Under the Trudeau government, the ‘Third Option’ was created to develop greater “economic relations with other countries.”<sup>48</sup> Following the election of Brian Mulroney, however, the ‘Third Option’ was ultimately abandoned,<sup>49</sup> and in 1989 Mulroney and President Reagan signed the Canada-U.S. Free Trade

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<sup>45</sup> Berry, D. (1995). “The Road to NAFTA”. *Toward a North American Community? Canada, the United States, and Mexico*. Boulder: Westview Press. pp. 9

<sup>46</sup> Capling & Nossal 152-153

<sup>47</sup> Fergusson, Ian. 2008. United States-Canada Trade and Economic Relationship: Prospects and Challenges. *CRD Report for Congress*. Retrieved on March 8<sup>th</sup>, 2009 from <<http://www.nationalaglawcenter.org/assets/crs/RL33087.pdf>> pp.5

<sup>48</sup> Hervouet, G. & Mace, G. (1989). “Canada's Third Option: A Complete Failure?” *Canadian Public Policy*. 15(4) 387-404. p. 388

<sup>49</sup> Ibid. 402

Agreement (CUSFTA), which eliminated trade barriers on all goods and services as well as provided provisions for a new ‘investor-friendly’ environment.<sup>50</sup> Following the signing of CUSFTA, Canada sought to deepen its economic relations with the U.S.; however, with the eagerness of Mexico to create a free trade agreement as well, trilateral negotiations for NAFTA began.

Although, before NAFTA Canada and Mexico did not share substantive economic relations with one another, their individual relationships with the U.S. appear to be very similar; however, even before NAFTA negotiations began, Canada was concerned about the inclusion of Mexico in that it would “jeopardized Canada’s privileged status in terms of its ‘special relationship’ with the U.S.”<sup>51</sup> Canadian relations with Mexico will be examined later on in this paper.

### *B. The Three Amigos: NAFTA and the rise of Trilateralism*

On January 1<sup>st</sup>, 1994, the ‘three amigos’ created one of the largest and most extensive free trade agreements in the world. NAFTA eliminated a significant number of trade barriers for goods and services of all signatory countries. The principal objective of NAFTA was to “promote conditions of fair competition”, increase “investment opportunities”, and “establish a framework for further trilateral, regional and multilateral cooperation that would expand and enhance the benefits” of all three countries.<sup>52</sup>

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<sup>50</sup> Weintraub, S. (2005). “A North American “Community”: Pros and Cons.” *Issues in International Political Economy*. January 2005 CSIS No. 61 pp.1

<sup>51</sup> Capling & Nossal 153

<sup>52</sup> DFAIT. 1994. *The North American Free Trade Agreement (NAFTA): Chapter One Objectives*. Retrieved on March 9<sup>th</sup>, 2009 from <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/nafta-alena/texte/chap01.aspx?lang=en#Article102>>

The regional trade arrangement consists twenty-two chapters in which the “majority of them deal with issues or rules that cut across the entire economies of the three countries, while others deal with specific sectors such as energy, agriculture, and telecommunications.”<sup>53</sup> At its core, the primary purpose of NAFTA was to eliminate the majority, if not all, tariffs on exports between the three countries as well as create a set of harmonized rules and regulations on automobiles and textiles (rules of origins, ROO).<sup>54</sup> In addition to tariff elimination, NAFTA upheld the GATT standards of non-discrimination and competitiveness fairness (antidumping provisions) in regards to government procurement, services, intellectual property rights, and foreign direct investment (FDI). NAFTA also created a set of institutions in which it established a dispute settlement mechanism to ensure compliance, as well as the Commission for Environmental Cooperation (NACEC), and the Commission for Labour Cooperation (NACLC) to “connect the environment and labour rights institutionally with continental trade issues.”<sup>55</sup>

NAFTA resulted in unprecedented levels of economic harmonization and interdependence, and the North American region ultimately experienced a deeper level of integration beyond what the three amigos had envisioned. As a result of NAFTA, “trade tripled and FDI quintupled” in North America between 1994-2006.<sup>56</sup> Due to the large size of its economy, the U.S. was less affected by NAFTA; however, the U.S. still made

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<sup>53</sup> Cameron, M. & Tomlin, B. (2000). “Chapter 3: Assessing the NAFTA Bargain.” *The Making of NAFTA, How the Deal was Done*. Ithaca: Cornell University Press. pp. 33-34

<sup>54</sup> Cameron & Tomlin 34-35. Rules of Origins (ROO) means that textile products must meet special requirements to qualify for preferential treatment in that there must be North American content in the actual yarn or fiber in the fabrics in apparel products are made.

<sup>55</sup> Clarkson, S. & Rangaswami, R. (2008). “The Governance of North America: NAFTA’s Complex Institutional Structure” in *Politics in North America. Redefining Continental Relations*. ed. Abu-Laban, Y. Peterborough: Broadview. pp. 106-107

<sup>56</sup> Pastor (2010) 3

considerable gains with NAFTA creating 137 million new U.S. jobs, and increasing inward FDI from \$24.8 billion to \$147 billion from 1993-2006.<sup>57</sup> Other signs of integration show that “Canada and Mexico have become the largest source of energy import in the U.S.,” tourism and immigration (both licit and illicit) have increased across borders, and, most notably in 2002, Mexico’s GDP increased by 5 per cent and its exports by 50 per cent since the signing of NAFTA in 1994, contributing to the country’s economic growth and development.<sup>58</sup> The creation of NAFTA raised the standard of living in North America through increased wages, greater global competition, and the creation of thousands of new jobs and industries; however, NAFTA peaked in 2001 following the terrorist attacks on September 11<sup>th</sup>.

### *C. Post-9/11 North America: Dual-Bilateralism?*

The events on September 11<sup>th</sup>, 2001 resulted in long-term consequences to North American regionalization in that economic openness and fluid borders were no longer the main focus of the continental agenda. Rather, heightened security and enhanced border management became the foremost priority not only in the U.S., but in the continent as well. This was evident with the *Smart Border Declaration* in 2001 between Canada and the U.S., and in 2002 between the U.S. and Mexico, which sought to harmonize border securitization between the three countries through enhanced surveillance technologies. Investment in new surveillance mechanisms, such as infrared cameras and biometric passports, sought to deter the entry of ‘undesirable’ individuals or goods while

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<sup>57</sup> Ibid.

<sup>58</sup> Ibid. 4

maintaining NAFTA economic flows.<sup>59</sup> The post-9/11 era created a critical shift in North American integration in that regionalization was no longer trilateral in character, but reverted back to dual-bilateralism with the U.S., as well as its security agenda, in the centre. This dynamic became increasingly apparent following the formation of two separate Smart Border plans. Following the implementation of the *Smart Borders* plan, border security between the northern U.S. border and the southern U.S. border thickened significantly. Increased wait and inspection times slowed down the cross-border flows of goods and people.<sup>60</sup> According to Susan Bradbury and David Turbeville, due to the “initiation of multiple security programs”, the number of trucks crossing the U.S.-Canada border declined 6 per cent and has resulted in wasteful duplication inspections and higher costs, particularly for transportation companies.<sup>61</sup>

Enhanced surveillance technology failed to mitigate the negative effects of border securitization on the region’s economic activity; therefore, in 2005, renewed efforts by the three amigos emerged to push forward a more boisterous economic agenda as well as build on the former success of NAFTA. The Security and Prosperity Partnerships (SPP) created two agendas. “The security agenda focused on external and internal threats to North America and sought to simplify the secure movement of low-risk traffic across shared borders; and the prosperity agenda sought to enhance productivity, reduce the costs of trade, and improve the quality of life” for North Americans.<sup>62</sup> Security became

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<sup>59</sup> Cote-Boucher, K. (2008) “The Diffuse Border: Intelligence-Sharing, Control and Confinement along Canada’s Smart Border.” *Surveillance and Society*. 5(2). 142-165. pp. 142-143

<sup>60</sup> Anderson (2012) 17

<sup>61</sup> Bradbury, S. & Turbeville, D. (2009). “Are Enhanced Trade and Enhanced Security Mutually Exclusive/? The Western Canada-U.S. Borderland in a Post-9/11 World.” *American Review of Canadian Studies*. pp, 333

<sup>62</sup> Capling & Nossal 160

“irrevocably intertwined with economic governance.”<sup>63</sup> The SPP was a trilateral effort to reclaim the strong North American relationship that existed prior to 9/11.<sup>64</sup> The number of high-level meetings between Canada, Mexico, and the U.S, increased dramatically in 2005 in which all three countries committed to at least one annual meeting to negotiate SPP and discuss a wide range of issues including “North American competitiveness, trilateral pandemic cooperation, energy policy, and secure borders.”<sup>65</sup> Yet, SPP failed to launch as a result of low popular support and a lack of political momentum from the U.S. as well as Canada, and in 2010, the annual trilateral leaders’ summits were discontinued.<sup>66</sup> Although the SPP sought to create integrative arrangements, in substance, “there was little trilateral space created by the SPP,”<sup>67</sup> and the agreement remained “devoid of pooled decision-making,” maintaining the dual-bilateral relationship.<sup>68</sup>

Following the failure of the SPP, the U.S. sought to demarcate the management of its two borders; thus, creating the *Beyond the Border Plan* with Canada, and (separately) creating the *Merida Initiative*, a U.S.-Mexico security partnership, with Mexico. The *Beyond the Border Plan* was established in 2011 between Canada and the U.S. in order to facilitate the cross-border movement of goods and people as well as securitize the northern part of the continental perimeter. The provisions of the agreement implemented mandatory preclearance programs for all citizens and businesses (such as NEXUS or the FAST pass, which are currently optional programs for cross-border travelers and

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<sup>63</sup> Anderson (2012) 2

<sup>64</sup> Ibid.

<sup>65</sup> Hristoulas, A. (2010a). “Plus ca change: Canada-Mexico Bilateral Relations in the North American Context” in *Our Turtle Island to the Security and Prosperity Partnership*. ed. Castro-Rea, J. Forthcoming. Vancouver: University of British Columbia Press. pp.15

<sup>66</sup> Anderson (2012) 18

<sup>67</sup> Capling & Nossal 160

<sup>68</sup> Anderson (2012) 18

businesses),<sup>69</sup> the provision of one's biometric information to government officials, the use of technologically-enhanced identity cards, as well as the establishment of integrated exit controls and visa screening processes.<sup>70</sup> Although, the Canadian and the U.S. governments have framed this initiative as an economic agreement, it is inherently focused on increased securitization of the U.S. (and in extension the North American border) through improved technology.

On the other side of the dual-bilateral coin, the *Merida Initiative* between U.S. and Mexico was created to effectively combat transnational organized crime and drug trafficking networks in Mexico. At its initial stage in 2007, *Merida* was primarily focused on military and border management assistance in which the U.S. provided Mexico with \$204 million conditionally earmarked for military equipment (including transport helicopters and aircrafts) and surveillance technology (ion and gamma ray scanners, X-ray vans, and canine units) in order to reduce the movement of illicit goods into the U.S. from Mexico.<sup>71</sup> In 2010, under President Obama, the scope of the initiative expanded and began to shift its emphasis on the capacity building of Mexico's judiciary and penal systems. The broadened scope of *Merida Initiative* sought to strengthen U.S.-Mexican relations by building strong and resilient border communities, institutionalizing the rule of law, while still emphasizing the need for adequate security forces to fight transnational organized crime.<sup>72</sup> Similar to Canada, the *Merida Initiative* appears to be focused on bilateral development and aid; however, it too is entrenched within the U.S. security

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<sup>69</sup> Government of Canada. (2011). "Border Action Plan" *Government of Canada*. Retrieved on June 5<sup>th</sup>, 2012 from <[http://actionplan.gc.ca/grfx/psec-scep/pdfs/bap\\_report-paf\\_rapport-eng-dec2011.pdf](http://actionplan.gc.ca/grfx/psec-scep/pdfs/bap_report-paf_rapport-eng-dec2011.pdf)>. pp.17

<sup>70</sup> Government of Canada. (2011). "Border Action Plan" *Government of Canada*. Retrieved on June 5<sup>th</sup>, 2012 from <[http://actionplan.gc.ca/grfx/psec-scep/pdfs/bap\\_report-paf\\_rapport-eng-dec2011.pdf](http://actionplan.gc.ca/grfx/psec-scep/pdfs/bap_report-paf_rapport-eng-dec2011.pdf)>.

<sup>71</sup> Seelke, C. & Finklea, K. (August 2011). "US-Mexico Security Cooperation: The Merida Initiative and Beyond." *Congressional Research Service*. Washington. pp. 3

<sup>72</sup> Ibid.

agenda in that not only does it seek to fortify the southern part of North American perimeter, but it also seeks to converge Mexico's legal and regulatory system to U.S. standards.<sup>73</sup> The North American hierarchy still endures in which concessions on security cooperation have been made by Canada and Mexico, in exchange for continued U.S. market access.<sup>74</sup>

#### **IV. The Barriers of North American Integration**

At the peak of NAFTA in the late 1990s, North American appeared to be on the verge of deepened integration. In 2000, Mexican President Vicente Fox sought to transform NAFTA beyond its free trade agreement status, and advocated for the creation of a customs union. President Fox's "Vision 20/20" proposal was an attempt to encourage trilateralism and create favourable conditions for future integration. Through increased interdependence, regulatory harmonization, and the establishment of transnational institutions, North America regionalization would move beyond its free trade agreement and establish a North American economic community.<sup>75</sup> After September 11<sup>th</sup>, however, North America's weak trilateral relationship became evident, during which the aggressive U.S. security agenda exposed the key barriers to North American integration. Although, many barriers to regionalization exist, this section will primarily focus on the institutional deficit in North America, the fast-tracked integration of security, and the asymmetrical power structure between the three countries.

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<sup>73</sup> Perez Rocha, M. (2011). "The Failed War on Drugs in Mexico" *Transnational Institute*. Retrieved on July 18<sup>th</sup>, 2012 from <[www.tni.org/print/68305](http://www.tni.org/print/68305)>.

<sup>74</sup> Anderson (2012) 18

<sup>75</sup> Belanger, L. (2008). "Canadian, Mexico and the Future of Trilateralism in North America" *North American Dialogue Series*. No. 8. July-December. pp.11

### A. *The Institutional Deficit of NAFTA*

At its inception, NAFTA was seen as an unprecedented initiative that brought together three very diverse countries into one economic agreement; however, in actuality, not only are the existing institutional mechanisms judicially and politically weak in upholding the provisions of NAFTA, but the prospects of greater regionalization are ultimately limited due to the lack of a transnational legislative and regulatory body.

#### Dispute Settlement Mechanisms

Modeled after the WTO, NAFTA created a legal dispute settlement mechanism that not only sought to ensure compliance of its provisions, but also to create an equal and fair playing field among member states in that no state would receive preferential treatment over another. The dispute settlement mechanism was “designed to deal with trade remedy laws, and imperfect as it was, it had been broadly successful in smoothing the incidences of trade disputes among the three countries.”<sup>76</sup> It was essentially a temporary ‘judicial body’, or a panel, that was composed of various trade experts, lawyers, and retired judges, who were familiar with legal and economic concepts of NAFTA.<sup>77</sup> It should be noted, however, that following their rulings, dispute panels were dismantled ultimately raising concerns over the consistency and continuity of the process.<sup>78</sup> With the mechanism’s ad hoc and temporary nature, these panels were void of any significant authority in that rulings were non-binding in practice, especially in

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<sup>76</sup> Anderson (2012)

<sup>77</sup> Kirton, J. (2004). “NAFTA Dispute Settlement Mechanisms: An Overview.” Prepared for *Experts Workshop on “NAFTA and its Implications for ASEAN’s Free Trade Area,”* May 2004. Asian Institute, Munk Centre for International Studies, Toronto pp.3

<sup>78</sup> Clarkson & Rangasawami 105

decisions involving the U.S. where the economic stakes were high and rulings may be seen as politically unfavourable.<sup>79</sup>

The most notable case that exhibited the institutional weakness of the dispute settlement mechanism, and in turn NAFTA, is the softwood lumber dispute in 2001 between Canada and the U.S. in which the U.S. imposed a 27 per cent duty on Canadian lumber. U.S. officials argues that Canada had “unfairly subsidized its producers by charging less than market value prices for lumber” to American firms practicing antidumping and countervailing, violating Chapter 19 of NAFTA.<sup>80</sup> The dispute went before various NAFTA panels as well as through the dispute mechanism of the WTO, both of which ruled in favour for Canada; however, the U.S. refused to adhere to the rulings and declined to compensate Canada for the \$5 billion worth of duties they have placed on Canadian lumber.<sup>81</sup> In 2006, Prime Minister Harper and President Bush reached an agreement in which Canada, for whom the panels had ruled in favour of, compensated U.S. lumber buyers in the amount of \$1 billion.<sup>82</sup> This historical dispute did not only show the U.S. tendency to violate binding agreements for their own national self-interest; but it also showed “the failure of the NAFTA to resolve long-standing trade disputes.” It became apparent that “economic integration has grown beyond the ability of NAFTA to manage its complexities.”<sup>83</sup>

Mexico suffered a similar fate during its notorious trucking dispute with the U.S. in which the U.S. Supreme Court overruled the dispute panel’s judgment requiring the

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<sup>79</sup> Ibid. 104

<sup>80</sup> CBC. 2006. Softwood Lumber Dispute. *The CBC News*, August 23<sup>rd</sup>, 2006. Retrieved on March 8<sup>th</sup>, 2009 from < [http://www.cbc.ca/news/background/softwood\\_lumber/](http://www.cbc.ca/news/background/softwood_lumber/)>

<sup>81</sup> Ibid.

<sup>82</sup> Pastor (2010) 11

<sup>83</sup> Barrett, C. & Golden, A. (2004). “Will We Rise to the Challenge?: Eight Mega Issues Facing Canada.” *The Conference Board of Canada: Insights You Can Count On*, February 2004, pp. 2.

U.S. to lift its blockade on the entry of Mexican trucks. The U.S. Supreme Court argued that Mexican trucks did not meet U.S. safety and environmental standards;<sup>84</sup> however, given the influence of the U.S. trucking unions and fears over illegal immigration, the political motivations for the blockade go beyond environmental standard concerns.<sup>85</sup> The blockade required Mexican trucks to unload its contents at the U.S. border, and then load it back into American trucks, slowing the movements of goods across the border significantly. It should be noted, however, that in contrast to Canada's reaction to the softwood lumber dispute, Mexico responded to the Supreme Court's ruling by imposing a series of high tariffs on a number of U.S. agricultural and industrial products.<sup>86</sup> The decision to reject NAFTA's ruling, and Mexico's reaction, again showed the institutional weakness and ineffectiveness of the dispute mechanism in which protectionist tendencies continue to exist.

#### The Frailty of the North American Commissions: Environment and Labour

Although, NAFTA's dispute mechanism appeared institutionally and legally void, "NAFTA still remains to be one of the more progressive and responsive trade agreements in operation where labour and environmental issues are concerned."<sup>87</sup> The North American Commission for Environmental Cooperation (NACEC) and the North American Commission for Labour Cooperation (NACLC) made institutional strides in

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<sup>84</sup> Clarkson & Rangasawami 104

<sup>85</sup> BBC News. (July 2011). "US and Mexico end cross-border trucking dispute" *BBC News*. Retrieved on June 11<sup>th</sup>, 2012 from <<http://www.bbc.co.uk/news/world-latin-america-14059115>>.

<sup>86</sup> Ibid.

<sup>87</sup> Anderson, G. (2011). "NAFTA on the Brain: Why Creeping Integration Has Always Worked Better" *Border Policy Research Institute*. Presented at Western Washington University on April 28<sup>th</sup>-29<sup>th</sup>, 2011

North America in that they created a “trilateral fora for discussion” regarding environmental and labour rights issues and their linkages to trade.<sup>88</sup>

The NACEC broke new ground in which it provided a public consultation process on environmental issues and policies that included the presence of scientific networks, environmental non-governmental organizations, and businesses across the continent.<sup>89</sup> It achieved surprising success in coordinating environmental policies regionally. Due to its advocacy for environmental regulatory harmonization, the NACEC “contributed to the opening of new political spaces for Mexican environmental NGOs’ participation in domestic decision-making processes.” This resulted in reforms to Mexico’s environmental laws in 1996 that were modeled after U.S. environment laws.<sup>90</sup> Although NACEC made strides in pushing the regional harmonization of environmental standards, its mandate “was constrained from the outset by government seeking to avoid further continental commitments” in that its initial purpose was to ensure that each country complies with its own environmental commitments.<sup>91</sup> Yet, even with its original mandate the NACEC lacks teeth and the ability to enforce domestic environmental compliance, let alone compliance on a regional level.<sup>92</sup>

Although seen as the weaker of the two agreements, the NACLCL was created due to concerns over worker rights in the maquiladoras and concerns over U.S. job losses. The NACLCL was mandated to defend labour rights on a regional level; however, the NACLCL was not stipulated to create continental labour norms, nor was it stipulated to

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<sup>88</sup> Anderson (2012) 16

<sup>89</sup> Ayres & Macdonald 32

<sup>90</sup> Ibid.

<sup>91</sup> Clarkson & Rangasawami 106

<sup>92</sup> Capling & Nossal 164

enforce the domestic labour standards of member states, contrary to the NACEC.<sup>93</sup> The NACLCL did experience relative success in which it has “created some public pressure on corporations to abide by existing legislation,” particularly in Mexico. It also encouraged civil society organizations to “publicly challenge governments over their lack of enforcement of their labour laws,”<sup>94</sup> as well as pressure governments for improved working conditions. However, “the ineffectiveness of the NACLCL in promoting labour rights is attributable not only to its weak capacity for enforcement, but also to the lack of common understandings and strategies among governmental and non-governmental actors in the three countries.”<sup>95</sup> It could not even prevent member governments from lowering their statutory protections for workers, in which a number of labour standards were altered in Ontario and Mexico.<sup>96</sup>

The establishment of these two institutions were innovative in principle in that they were political gestures to gain popular support from environmental groups and unions; however in practice, the three amigos designed these side agreements to maintain their sovereign control over labour and environmental issues<sup>97</sup> with minimal intentions to converge or harmonize their laws and regulations.<sup>98</sup>

#### ‘Tyranny of Small Differences’ and the lack of Transnational Oversight

As one examines the institutional weaknesses and failures of NAFTA, one should also examine the institutional gaps that also exist. The NAFTA institutions outlined

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<sup>93</sup> Clarkson & Rangasawami 107

<sup>94</sup> Ayres & Macdonald 32

<sup>95</sup> Ibid.

<sup>96</sup> Clarkson & Rangasawami 107

<sup>97</sup> Ayres & Macdonald 32

<sup>98</sup> Capling & Nossal 164

above exposed the character of North American regionalization in that NAFTA was not primarily utilized to improve neighbourly relations, or increase economic interdependence as intended by its drafters; rather, it became used as a tool of the state to gain more control of a globalizing economy, of which the U.S. is a key member. According to Greg Anderson, “NAFTA created the shallowest forms of institutionalization,” forms that ended up “largely preserving many traditional patterns of Westphalian sovereignty while simultaneously dismantling others.” NAFTA entrenched decision-making in each member’s national bureaucracies, making it particularly difficult “to elevate North America integration onto the political agenda.”<sup>99</sup> These bureaucratic and political obstacles created a ‘tyranny of small differences’.

The ‘tyranny of small differences’ is in reference to the slight differences in regulations and standards between state-to-state that ultimately impede the free and efficient movement of goods across borders. These small differences are a serious drain on North America’s competitiveness,<sup>100</sup> and can often be used as a protectionist scapegoat to limit the movement of a good from one country to another. According to the *Globe and Mail*, this can be seen as the “Campbell Soup Dilemma” in that when Campbell Soup Co. makes “canned vegetable soup, it has to run separate production lines.” This is due to regulatory differences in that “Canadian regulations specify that only 19-ounce cans of certain processed fruits and vegetable products can be sold in Canadian stores,” where U.S. regulations stipulate 16-ounce cans. Small differences in regulations drive up manufacturing costs, making cross-border commerce incredibly

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<sup>99</sup> Anderson (2012) 16

<sup>100</sup> Ibid.

complex and inefficient.<sup>101</sup> In order to mitigate the negative effects of this ‘tyranny’ on North American competitiveness, there is a need for a transnational institution or association, similar to the European Commission, whose primary mandate would be to increase regulatory harmonization among the three countries. Without the presence of a transnational body, committed to the organization and advancement of the North America agenda, issues regarding regional economic integration will remain clogged up deep in the bureaucracy of each country.<sup>102</sup> According to Roland Paris, the SPP was “nothing more than a hodgepodge of bilateral and trilateral working groups that did little more than generate grocery lists that lacked any organizing vision or direction.”<sup>103</sup> Devoid of transnational institutions that will promote greater regional integration, regulatory harmonization and regionalization of North America will continue to stagnate.

### *B. The Security-Economic Nexus: The 800-Pound Gorilla and Fast-Track Integration*

#### Theories of Integration: Neofunctionalism versus Intergovernmentalism

Integration theory rose to the political forefront following the establishment of the European Coal and Steel Community (ECSC) in which nation-states pooled their sovereignty as well as their vital resources to build on their economic interdependence. Although, several integration theories have developed since 1957,<sup>104</sup> neofunctionalism and intergovernmentalism have been the two constants in explaining the phenomenon of integration. *Neofunctionalism* is centered on the concept of ‘spillovers’ and the transfer of

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<sup>101</sup> Blackwell, R. (January 2012). “Border Deals Aims to reduce ‘tyranny of small differences’ in regulation” *The Globe and Mail*. Retrieved on June 20<sup>th</sup>, 2012 from <<http://www.theglobeandmail.com/report-on-business/economy/border-deal-aims-to-reduce-tyranny-of-small-differences-in-regulation/article4085386/>>.

<sup>102</sup> Anderson (2012) 20

<sup>103</sup> Paris, R. (2007). “A Trilateral Mishmash” *Globe and Mail*, 26 February 2007.

<sup>104</sup> Genna 144

national sovereignty. Founded by Ernst Haas, he saw that integration was provoked by functional and political spillovers. Functional spillovers occur when integration in one sector would produce integration in other related sectors.<sup>105</sup> For example, under the ECSC, the integration of coal and steel production resulted in the need for integration of the transport systems so that resources could move more easily. As functional spillovers gradually increase across sectors, the deeper the economic interdependence becomes, resulting in political integration whether that be a customs union, monetary union, or complete political union.<sup>106</sup> Functional spillovers are driven by interest groups, consisting of individuals within the private sector, the labour force, and those engaged in transnational exchanges. These individuals continuously place pressure on decision-makers to create transnational policies that help facilitate the movement of goods, services, and people across territorial boundaries and reap the benefits of economic globalization.<sup>107</sup>

Proponents of *intergovernmentalism*, on the other hand, argue that the interests of nation-states and interstate bargaining drive regional integration. Regional integration ought not to be characterized by the pooling of sovereignty, but rather the transfer or delegation of sovereignty to transnational institutions in order to collectively fill in the gaps of governance left by economic globalization. It is the notion that integration is essentially a state tool to further a country's domestic agenda.<sup>108</sup>

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<sup>105</sup> Haas, E. (1961). "International Integration: The European and the Universal Process" *International Organization Foundation*. 15(3). 366-392. pp. 372

<sup>106</sup> Howard, L. (2009). The European Union: Supranational or Intergovernmental? A Reaccount and Analysis of Both Schools of Thought. *Australian and New Zealand Journal of European Studies*. 60-65. pp. 61

<sup>107</sup> Stone Sweet, A. & Sandholtz, W. (1997). European Integration and Supranational Governance. *Journal of European Public Policy*. 4(3). 297-317. pp.303

<sup>108</sup> *Ibid.* 63

Integration theorists have often pinned neofunctionalism and intergovernmentalism against one another; however, it should be noted that the two are not entirely mutually exclusive in that domestic interests are fueled by spillovers, and functional spillovers require political validation in order to expand into other policy areas.<sup>109</sup> Although, they may appear at odds with one another, they can work in tandem. Intergovernmentalism is ultimately an extension of neofunctionalism in that without the technical presence of functional spillovers, regional integration through interstate bargaining alone will remain shallow due to the lack of political, economic, and societal momentum.<sup>110</sup> Integration theories are critical in comprehending and explaining the regionalization trends in North America. On the surface, the formal integration arrangements, like CUSFTA, NAFTA, and the SPP, appear to be fundamentally intergovernmental in that these agreements were drawn up, negotiated, and signed by the governments of these three countries. Although, these arrangements have helped to create a relatively favourable environment for deeper integration, North American regionalization goes far beyond trade negotiations and political bargaining. Below the surface, functional spillovers are taking place within, and between, various industry sectors.

### The Spillover Effect: From Driving North America to Securing North America

The effects of spillovers, and the ability of nation-states to foster these spillovers, are critical in strengthening North American integration as cross-border economic

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<sup>109</sup> "Theories of Integration" Retrieved on June 14<sup>th</sup>, 2012 from <[http://www.oup.com/uk/orc/bin/9780199544813/bache3e\\_ch01.pdf](http://www.oup.com/uk/orc/bin/9780199544813/bache3e_ch01.pdf)>.

<sup>110</sup> Borzel, T. & Risse, T. (2000). "When Europe Hits Home: Europeanization and Domestic Change" *EUI Working Papers*. No.56. *Robert Schuman Centre for Advanced Studies*. Florence: European University Institute.

activity between the three countries become increasingly interlinked and interdependent. Although, functional spillovers exist in many key sectors of the North American economy – including energy, electronics, pharmaceuticals, parts of the agricultural industry, and finance – the most notable integrative industry that has resulted from functional spillovers is the automotive industry. The auto industry has deeply “integrated North America’s production, distribution, and marketing systems”<sup>111</sup> in that Canadians, Americans, and Mexicans no longer sell automobiles to each other, but “we build them together.”<sup>112</sup> The integrative efforts, and the initial spillover effect, of the auto industry began with the 1965 Auto Pact. Prior to the Auto Pact, automobile industries in Canada and the U.S. were highly segregated as a result of high tariffs and the Canada’s requirement that auto companies had to produce “made-in Canada models for the national market.”<sup>113</sup> With the high costs of tariffs on auto parts and the unsustainability of the “made-in Canada” production, multinational auto firms and labour unions pressured governments to establish a favourable regulatory system that would facilitate the efficient production of cars.<sup>114</sup> The 1965 Auto Pact eliminated tariffs on auto parts, which reduced costs to multinational firms and created a continental-wide free trade zone of automobiles.<sup>115</sup> The signing of NAFTA solidified this relationship. NAFTA “extended the integrated auto production system” by widening the industry (with the participation of

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<sup>111</sup> Blank, S. (2011a). “Building Autos: How North America Works and Why Canadian Studies should be Interested” *American Review of Canadian Studies*. 41(4). 330-344. pp. 331

<sup>112</sup> Blank, S. (2011b). “Driving Continental Integration: Auto Manufacturing and the Future of North America” *The Macdonald-Laurier Institute*. pp. 3

<sup>113</sup> Blank (2011b) 5

<sup>114</sup> Fuss, M. & Waverman, L. (June 1986). “The Canada-U.S. Auto Pact of 1965: An Experiment in Selective Trade Liberalization” *NBER Working Paper Series*. Cambridge: National Bureau of Economic Research. pp. 2.

<sup>115</sup> Anastakis, D. (2005). *Auto Pact: Creating a Borderless North American Auto Industry, 1960-1971*. Toronto: University of Toronto Press.

Mexico), and also deepened it by removing several additional trade barriers in order to further facilitate and manage the industry's spillover effects.<sup>116</sup>

The integration of the three countries' auto sector was "largely a bottom-up" development in that the unprecedented "collaboration and complementarity between countries" were not "planned", but rather, were a result of "individual corporate strategies and structures."<sup>117</sup> With the removal of tariffs on auto parts, regional integration began to spillover into other areas. "Networks of supply chains that link production centres and distribution hubs across the continent allowed firms to link the most favourable sites for R&D (research and development), production, and distribution in order to enhance productivity on a continental scale."<sup>118</sup> Functional spillovers also contributed to the improvements to the freight transportation system. North America's auto industry would use the "same roads and railroads to transport jointly made products, and increasingly harmonize standards of professional practice".<sup>119</sup> Spillovers created economic stability within the industry, as well as facilitated the harmonization of regulations among countries that solved the issue of 'tyranny of small differences'. According to Stephen Blank, "a quarter of the one billion dollars of goods that cross the US-Canada-Mexico borders each day is automotive – not finished vehicles, but parts, components and modules. This is not just trade integration, but it is the integration of production systems."<sup>120</sup>

Following September 11<sup>th</sup> and the reprioritization of the U.S. security agenda, regional integration actually increased in that the North American agenda was no longer

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<sup>116</sup> Ibid. 6

<sup>117</sup> Blank (2011b) 4

<sup>118</sup> Ibid.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

limited to economic and trade issues, but expanded into security-related matters including border management, anti-terrorism, drug trafficking, and immigration.<sup>121</sup> The widened North American agenda created an “awkward nexus of security and economics,”<sup>122</sup> in which the integration of security became prioritized over economic integration. This is referred to as ‘fast-tracked integration’ in that regional integration occurs in high politics areas (security, immigration, defense) before it occurs in low politics areas (trade, investment, services). According to Robert Pastor, fast-tracked integration provided an opportunity for greater trilateralism and regionalization to occur;<sup>123</sup> however, with the inability of the Smart Borders Plans to mitigate the negative economic effects of the thickening U.S. border as well as the failure of the SPP negotiations, it is evident that fast-tracked integration has not worked in deepening North American integration due to the lack of functional spillovers. In fact, North American integration ultimately became shallower in that while regionalization was fast-tracked into the realm of security, it did so at the expense of economic integration, particularly the integrative auto industry.<sup>124</sup> With longer border wait times and the failure of the three amigos to harmonize many key transportation regulations due to 9/11 security concerns, corporations were “forced to shift back from just-in-time production to just-in-case production – that is, to rebuild expensive inventories – and risked cut-backs to cross-border auto integration.”<sup>125</sup>

According to Schmitter, deep and sustained integration that will “generate significant benefits for all participants” ought to begin in a “functional area of relatively

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<sup>121</sup> Hristoulas, A. (2010b). “Whatever Happened to the North American Security Perimeter?” Prepared for the *Annual International Studies Association Meeting, 2010*. pp.3

<sup>122</sup> Anderson, G. (2010). “North American and the Three Noes” *The Estey Centre Journal of International Law and Trade Policy*. 11(1). 280-302. pp. 280

<sup>123</sup> Pastor, R (2004). “North American’s Second Decade” *Foreign Affairs*. 83(1).

<sup>124</sup> Bradbury & Turbeville 335

<sup>125</sup> Blank (2011b) 6-7

low political visibility.” He argues that by taking the “direct route” to integration in areas of high politics, involving security, immigration, military, and fiscal harmonization, often result in failure, or an integration stalemate, due to the publicized and politicized nature of the issues. By allowing functional spillovers to occur in sectoral (such as North America’s auto industry) and technical areas, not only are they “managed with little initial controversy” and involve regional cooperation to solve concrete problems of ‘small differences’, but they are also “sufficiently linked to other issues” to help generate secondary effects for further joint cooperation.<sup>126</sup> Moreover, by pursuing integration through low politics, not only will there be increased interdependence (sectorally, economically, and politically), but there will also be increased public support for regional integration as they see the concrete benefits of integration. The post-9/11 North American integration model, however, has not created favourable conditions for such technical and sectoral integrative mechanisms to be put in place; therefore, since the economic benefits of regionalization cannot be seen and grasped by the public, North American cooperation will face many functional and political obstacles as it attempts to move forward.

The political push for the fast-tracked integration of North America by the three amigos ultimately resulted in a top-down process in which regionalization was no longer driven by businesses or interest groups, but directed and implemented by governments and their bureaucracies.<sup>127</sup> The top-down approach to integration creates rigidity in the system in which the North American agenda will often get caught up in the “mundane details of the work plans and inevitable bureaucratic obstacles,” such as competing departmental agendas as well as the lack of coordination between the bureaucracies of the

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<sup>126</sup> Malamud & Schmitter 8-10

<sup>127</sup> Cimon, Y. & Rebolledo, C. (2004). “Taking a Fresh Look at North American Integration” *Institute for Research on Public Policy*. No. 9. pp. 2

three countries, which ultimately resulted in the failure of the SPP.<sup>128</sup> Although, political motivation and commitment from the ‘top’ is a critical part in pushing forward the North American agenda, without businesses or societal groups to initiate functional spillovers, the processes of integration loses the flexibility to go beyond the bureaucratic approach. The flexibility of corporate strategy was a key component to NAFTA’s success in which, “with little government control, business were able to encourage rapid economic growth and job creation” as well as facilitate effective changes to the business structures of all three countries.<sup>129</sup> This bottom-up approach of integration not only allows for flexibility, but it also bolsters economic, societal, public momentum and support for further regional integration.

### Partners or Dependents?

According to Schmitter’s vision of neofunctionalism, this sudden inclusion of security integration did not result in a spillback (in which both the level of supranational authority and the number issue-areas covered regionally are reduced), but rather it resulted in a ‘muddle-about.’ A ‘muddle-about’ is a combination of the spillover and the spillback effect where regional integration experiences an increase in the number of issue-areas, but the level of supranational authority remains unchanged.<sup>130</sup> In the case of North America, the U.S. unilateral implementation of its security agenda, as well as Mexico and Canada’s quick willingness to relinquish their sovereignty in order to

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<sup>128</sup> Paris, R. (December 2011). “Canada-U.S. Border Deal: From Inspiration to Action?” *Canadian International Council*. Retrieved on December 2011 from <<http://www.opencanada.org/features/canada-u-s-border-deal-from-aspiration-to-action/>>.

<sup>129</sup> Blank, S., Golob, S. & Stanley, G. (2006). “SPP and the Way Forward for North American Integration: North American Solution” Prepared for *International Studies Association 2006, San Diego*. pp. 6-7

<sup>130</sup> Mace, G. & Schmitter, P. (2007). “Hemispheric Regionalism: From Spillover to Spill-back?” Prepared for the *International Studies Association, February 2007, Chicago*. pp. 2

appease the U.S. has resulted in a muddle-about, hindering the future of greater North American regionalization.<sup>131</sup>

The “closure of US airspace and border access in the days after September 11<sup>th</sup>, 2001” not only revealed the extent of cross-border integration among the three countries (particularly in the auto industry), but it also exposed the economic dependence of Canada and Mexico on the U.S.<sup>132</sup> The post-9/11 U.S. security measures laid bare the unintended consequences of NAFTA in that although it increased economic interdependence and trade liberalization, it ultimately created conditions for greater Canadian and Mexican dependency on the U.S. due to asymmetrical scope and size of their economies.<sup>133</sup> In 2008, 78 per cent of Canada’s exports (almost 40 per cent of its GDP) went to the U.S. market. Similarly, more than 80 per cent of Mexico’s exports (30 per cent of its GDP) were tied to the U.S. In comparison, 21 per cent of U.S. exports go to Canada, while only 12 per cent go to Mexico.<sup>134</sup> According to Swiston and Bayoumi, both Canada and Mexico’s growth cycles and economic fluctuations are tightly linked to the U.S. “A one per cent shock (positive or negative) to U.S. GDP shifts Canadian growth by  $\frac{3}{4}$  of a per cent.” The U.S. cycle is more pronounced in Mexico in that a “one per cent point shock to U.S. GDP leads to a  $1\frac{1}{2}$  per cent change” in Mexico’s; therefore, “when the U.S. sneezes, Mexico catches a cold.”<sup>135</sup> Although the U.S. growth cycle is also affected by Mexican and Canadian economic shocks, the linkage is minimal. Even the degree of integration is asymmetrical in that not only have Canada and Mexico

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<sup>131</sup> Bow, B. (2010). “North America as an Emergent Regional Security Complex” Prepared for the *International Studies Association, February 2010, New Orleans*. pp.11

<sup>132</sup> Anderson (2012) 17

<sup>133</sup> Anderson (2012) 16

<sup>134</sup> CIA World Fact Book

<sup>135</sup> Swiston, A. & Bayoumi, T. (2008). “Spillovers Across NAFTA” *IMF Working Paper*. No. 3. pp. 16

become dependent on the U.S. market, but they have also become “far more integrated into the American economy than the U.S. has become integrated in theirs.”<sup>136</sup>

It should be noted that trade in Canada and Mexico were already dependent on the U.S. prior to 1994; and although NAFTA created a level-playing field in regards to tariff reduction and regulatory harmonization, it reinforced the unequal degrees of integration and dependency among the three amigos (hierarchical sovereignty). This asymmetrical relationship would ultimately be exemplified following 9/11. According to David Lake, the hierarchy of sovereignty refers to the decision-making authority that each country possesses in relation to each other. In other words, “in purely anarchic relationships, each party possesses full authority to make its own decisions; however, in purely hierarchical relationships, one party – the dominant member – possesses full authority to make all decisions, and the subordinate member – lacks this right.”<sup>137</sup> This hierarchy of sovereignty is pertinent to North American integration, particularly with the security-economic nexus, in that the integration of security does not come from a “deeper commitment to regionalization,” but rather “comes from the U.S.’ unilateral security initiative.” Thus, due to their dependency, “Canada and Mexico have been actively involved in these developments”<sup>138</sup> in which they have given up some of their decision-making capability in order to desperately maintain access to the U.S. market and generate economic growth.<sup>139</sup> North American integration is no longer in pursuit of regulatory harmonization, but rather is in pursuit of regulatory homogenization to U.S. governance

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<sup>136</sup> Anderson (2012) 13

<sup>137</sup> Lake, D. (2003). “The New Sovereignty in International Relations” *International Studies Review*. 5(3). 303-323. pp. 311-312

<sup>138</sup> Bow 13

<sup>139</sup> Anderson (2012) 13

standards.<sup>140</sup> Without adequate transnational institutions, the degree of sovereignty between the Canada, the U.S., and Mexico will become more hierarchical; therefore, as the North American agenda widens with ‘high politics’ issues, supranational institutions are required to create a more equitable and trilateral relationship between the three amigos to ensure significant benefits for all. However, the fate of North America appears bleak, not only regarding the lack of commitment to establish transnational institutions, but regarding the increased hierarchy of sovereignty as it shifts towards dual-bilateralism as well.

### *C. The Comeback of Dual-Bilateralism: Three Amigos No More*

With the collapse of the SPP negotiations in 2009 and the cancellation of the 2010 trilateral leader’s summit, it appeared that the trilateral approach to the post-9/11 North American agenda appeared to be failing; therefore, North America regionalization witnessed a reversion back to two separate bilateral relationships that “characterized the pre-NAFTA era,” or what Robert Pastor calls, ‘dual-bilateralism’. This shift towards dual-bilateralism<sup>141</sup> was not only due to the barriers of integration (institutional weakness, fast-tracked integration and the lack of functional spillovers, hierarchical sovereignty), but also due to the heightened security threat of illegal immigration and drug-trafficking in Mexico.

In March 2009, the U.S. Secretary of Homeland Security (DHS), Janet Napolitano, stated that if increased security measures “are being done on the Mexican border, they should also be done on the Canadian border, we should not go light on one

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<sup>140</sup> Anderson (2011) 7

<sup>141</sup> Pastor (2010) 1

and heavy on the other.”<sup>142</sup> The comments made by Secretary Napolitano were much to Canada’s chagrin, vigorously arguing that the battle against illegal immigration and “drug-fuelled violence along the U.S.-Mexico border, was not of Ottawa’s business.”<sup>143</sup> Due to Canada’s economic dependency on the U.S., they sought to “defend their existing [bilateral] preferences” in order to get Canadian issues (particularly in regards to economic openness) placed high on the U.S. agenda. The re-bilateralization of North America made considerable sense in that the enhanced post-9/11 agenda could be “more rapidly and comprehensively dealt with in a Canada-U.S. and Mexico-U.S. context;”<sup>144</sup> however, this has not been the case. Not only has dual-bilateralism failed to achieve anything in pushing forward the continental agenda, but it has also eroded the accomplishments of trilateralism that resulted from NAFTA. Although the U.S. was the key driver of dual-bilateralism, Canada has also been “complicit in failing to develop a comprehensive approach to North America,”<sup>145</sup> straining it’s relations with Mexico as well.<sup>146</sup> According to Pastor, dual-bilateralism reinforces the imbalance in power among the three amigos. “For Mexico and Canada, dual-bilateralism accentuates their weakness, and for the U.S., the dominant of the three, it is an effective short-term strategy of divide and rule.”<sup>147</sup> Through dual-bilateralism, the reaffirmation of U.S. dependency heightens

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<sup>142</sup> Secretary Janet Napolitano (March 2009). Remarks at Brookings Institution border conference, March 25, 2009; The Canadian Press, Canada–U.S. Border Should Remain Tight: Homeland Security Chief.

<sup>143</sup> Anderson, G. (2009) “The Fragmentation and Integration of North American Governance: Border Security and Economic Policy for the Obama Administration.” *University of Calgary’s School of Public Policy: SPP Briefing Papers*. 2(4). pp. 9

<sup>144</sup> Ibid.

<sup>145</sup> Ibid

<sup>146</sup> Pastor, R. (2011). “A North American’s View of the Old NAFTA and the New North American Agendas” in *Canada Among Nations, 2009-2010: As Others See Us*. 82-92. Ed. Osler, F. & Heinbecker Montreal: McGill-Queens University Press. pp. 86

<sup>147</sup> Pastor (2010) 9

the barriers of integration in that North America regionalization and institutionalism will continue to remain shallow.

### Canada: The Beyond the Border Plan

Canada's dual-bilateral strategy has not work well, in which it failed to reach a fair agreement on softwood lumber, made no "discernable progress in managing the border better the U.S."<sup>148</sup> in that the duplication of the U.S. security measures have resulted in greater thickening of the border, failed to ensure political commitment by the U.S. on key bilateral projects (seen when the U.S. government decisively rejected the Keystone XL pipeline), and was ultimately unsuccessful in getting "Washington's attention."<sup>149</sup> Although, the implementation of U.S. security measures was inevitable following 9/11, the push for dual-bilateralism from Canada has exemplified the negative effects of the thickening border. It not only exposed Canada's economic dependency on the U.S., but it has also made Canada dependent on the U.S. in regards to its security policy. This growing dependency of security has been evident with the *Smart Borders Plan*, the creation of the Canada Border Services Agency (CBSA) (to mirror the U.S.' Customs and Border Protection force, CBP), and the new *Beyond the Border Plan*.

Although the *Beyond the Border Plan* remains in the early stages of implementation, its capacity to deepen North America or Canada-U.S. relations is minimal because it fails to address the critical barriers of integration and in actuality, enhances them. In regards to *transnational institutions*, due to the bilateral nature of the plan, there is no real momentum to create transnational institutions or strengthened the

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<sup>148</sup>Ibid

<sup>149</sup> Pastor, R. (January 2012). "The Road to Washington runs through Mexico" *The Star* on 22 January 2012.

institutions that already exists; thus, the implementation of the North American agenda will remain in the ‘hodge-podge’ structure of bureaucracy, risking the same fate of the SPP.<sup>150</sup> The plan’s lack of an institutional framework will also not create significant economic benefits in that its primary purpose remains security-based. As a result of the plan’s heavy focus on security (*fast-tracked integration*), what Canada and the U.S. fail to realize is that mitigating increased inspections and cross-border waiting times are just one aspect in promoting economic openness. The key driver to economic integration is the elimination of the regulatory ‘small differences’ through sectoral integration and functional spillovers. Therefore, without addressing the tyranny of small differences, economic integration will remain at a standstill from when it peaked in 2001.<sup>151</sup> It should also be noted that pre-clearance programs including FAST or CTPAT-/PIP (Partners in Protection) have become “quite burdensome in terms of their requirements” and can be quite costly, particularly for small businesses,<sup>152</sup> creating an additional barrier to economic interdependence. Dual-bilateralism accentuates the *asymmetrical relationship* between Canada and the U.S. Following 9/11, rather than creating an integrative system, Canada attempted to duplicate U.S. security measures with the establishment of CBSA in order to manage the growing terrorist threat. The new security plan seeks to eliminate such duplication by integrating CBSA and CBP through surveillance technology, biometrics, and exit controls. However, these measures are not reflective of integration or harmonization between the two, but rather a homogenization of CBSA’s procedures to CBP’s, implemented in order to appease the U.S. security agenda.

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<sup>150</sup> Robertson, C. (April 2012). “Trilateral Summit in Washington” Retrieved on July 18<sup>th</sup>, 2012 from <<http://www.colinrobertson.ca/?tag=nafta>>.

<sup>151</sup> Anderson (2010) 285

<sup>152</sup> Bradbury & Turbeville 333

Without proper functional spillovers and transnational institutions to manage transnational issues, the hierarchy of sovereignty will continue to grow between Canada and the U.S. and regionalization will remain stagnant. According to Robert Pastor, under the dual-bilateral framework, North American “regulations will not be harmonized, a uniform set of customs forms and traveller IDs will not be implemented, and a continent-wide transportation and infrastructure plan will not be contemplated without a clear, inclusive, and equitable vision and strategy by and for North America.”<sup>153</sup>

### Mexico: The Merida Initiative

Although the *Merida Initiative* differed from the *Beyond the Border Plan* in regards to framework and implementation, the primary goal of the two were the same: to align Canada and Mexico with the U.S. security agenda through the securitization of the North American perimeter.<sup>154</sup> The Mexican vision of North America differed significantly from Canada’s in which Mexico sought to push forward the continental agenda through trilateralism. President Vicente Fox was the principal proponent and facilitator of trilateralism in which he proposed “Vision 20/20” and “NAFTA Plus” to not only create favourable conditions for further economic interdependence, but to integrate other areas as well, including development, migration, and security.<sup>155</sup> However, heightened security following 9/11 as well as opposition from Canada saw the end to Fox’s NAFTA Plus proposal, resulting in Mexico’s bilateral security cooperation agreement with the U.S.<sup>156</sup>

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<sup>153</sup> Pastor (2012) Article from *The Star*

<sup>154</sup> Perez Rocha <[www.tni.org/print/68305](http://www.tni.org/print/68305)>.

<sup>155</sup> Hristoulas (2010a) 2

<sup>156</sup> *Ibid.* 7

Parallel to Canada's experience, the *Merida Initiative* and dual-bilateralism has also not fared well in Mexico.<sup>157</sup> *Merida* was initially established to combat the threats of drug trafficking, drug-related violence, and transnational organized crime through greater securitization and increased military capacity; however, since the implementation of the *Merida Initiative* in 2007, "the incidence of violence (both by drug-traffickers as well as military personnel) in Mexico has spiraled higher, the geographic area affected by violence has spread," and the number of trafficking-related killings have increased by 15 per cent from 2010 to 2011.<sup>158</sup> The *Merida Initiative*, seen as an assistance program, also failed to address the "root causes of drug trafficking (such as substance abuse and growing demand), existing poverty, and corruption."<sup>159</sup> In addition to exacerbated violence, Mexico has failed to make substantive gains to the U.S. market (which only since recently, Mexican trucks had been banned from entering the U.S.), and has also been unsuccessful in reaching a mutual agreement on immigration legislation.<sup>160</sup> Although the initiative was broadened in 2010 to include judiciary, penal, and border management assistance shifting its focus from militarization to capacity building, Mexico has still not reaped the benefits of bilateral integration in which it has given up a significant degree of its sovereignty with no reciprocation from the U.S.

Similar to the *Beyond the Border Plan*, the *Merida Initiative* is also characterized by *institutional deficit*. The lack of transnational oversight solidified the asymmetrical power structures that exist between Mexico and the U.S. The *Merida Initiative* was ultimately designed, conditioned, and funded by the U.S., with minimal input by the

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<sup>157</sup> Abu-Hamed, S. (Spring 2011). "The Merida Initiative: An Effective Way of Reducing Violence in Mexico?" *Pepperdine Policy Review*. 4(2). pp.38

<sup>158</sup> Seelke & Finklea 3

<sup>159</sup> Perez Rocha <[www.tni.org/print/68305](http://www.tni.org/print/68305)>

<sup>160</sup> Pastor, R. (2006). "A North American Community" *Notreamerika*. 1(1). 206-219. pp.212

Mexican government.<sup>161 162</sup> It became evident that Mexico has little significant political bargaining power in their bilateral relationship with the U.S. Without the equitable pooling of sovereignty and sufficient bargaining power to ensure that all citizens will benefit from regionalization, integrative programs like *Merida* will continue to falter. In regards its economic relations, although Mexico-U.S. economic links grew following NAFTA, there remain barriers to economic openness, particularly regarding the banning of trucks and labour mobility. Fox's "Visions 20/20" proposal sought to mitigate these issues through the promotion of greater sectoral integration, which would ultimately 'spill over' into other areas, lessening the effects of the tyranny of small differences. Yet, with *fast-tracked integration* through the *Smart Borders Plan* and the *Merida Initiative*, Mexico's military and security policies as well as their judicial and penal policies, converged with the U.S.<sup>163</sup> These initiatives failed to address the two main 'lower politics' issue (of trucks and labour mobility) that would not only improve bilateral relations between Mexico and the U.S., but it would also contribute considerably to Mexico's economic development.<sup>164</sup> Popular support for continental integration in Mexico became increasingly skeptical in that the public was unable to see the concrete benefits of regionalization. Due to the lack of public support for North American integration, in February 2010, "Mexico decided to turn its attention to its south, inviting Latin American leaders to set up a new organization without its two North American

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<sup>161</sup> Olsen, E. (July 2008). "Six Key Issues in United States-Mexico Security Cooperation." *Woodrow Wilson International Center for Scholars*. New Jersey: Princeton University Press.

<sup>162</sup> Vance, L. (May 2011). "Why Is the U.S. Fighting Mexico's War on Drugs?" Retrieved on July 20<sup>th</sup>, 2012 from <<http://www.fff.org/comment/com1105q.asp>>.

<sup>163</sup> Seelke & Finklea 2

<sup>164</sup> Hernandez, A.I. L. (2010). "When Cooperation and Intervention Meet: Sovereignty in the Mexico-United States Relationship" *Amsterdam Law Forum*. 3(4). pp.60-61

neighbours.”<sup>165</sup> The asymmetrical power structure and *hierarchy of sovereignty* is also clear when examining the effects of dual-bilateralism in Mexico. The imbalanced relationship between the U.S. and Mexico was exhibited in 2006 when President Felipe Calderon’s declared Mexico’s own ‘War on Drugs’.<sup>166</sup> Calderon’s declaration showed his unprecedented willingness to align Mexico’s security agenda with the U.S. security agenda.<sup>167</sup>

## V. Lessons Learned from the European Union

At the end of World War II, Europe sought to create collective measures in order to counteract the anarchic nature of nationalism and create conditions for interdependence in which war “would not only be unthinkable, but materially impossible”.<sup>168</sup> In May 1950, six European countries (including Germany, France, Luxembourg, Belgium, Italy, and the Netherlands) agreed to pool their natural resources and establish a transnational oversight body, the European Coal and Steel Community (ECSC), not only to ensure compliance, but to also integrate the productive forces of its member states.<sup>169</sup> Although European integration ebbed and flowed since the ECSC, the 1990s saw regionalization surge with the establishment of the European Union in 1993

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<sup>165</sup> Pastor (2010) 13

<sup>166</sup> Seelke, C. et al. (2010). “Latin America and the Caribbean Illicit Drug Trafficking and the U.S. Counterdrug Programs.” *Congressional Research Service*. Washington.

<sup>167</sup> Remarks by Thomas A. Shannon Jr., Assistant Secretary of State for Western Hemisphere Affairs, made on July 2<sup>nd</sup>, 2008 on the Merida Initiative. Retrieved from <<http://2001-2009.state.gov/t/pa/ei/coffee/106504.htm>>

<sup>168</sup> Roy, J. (2007). *The Reflections of the Treaty of Rome and Today’s EU*. Network of European Union Centre of Excellence. Miami: University of Miami Press. pp. 3

<sup>169</sup> Best, E. (2005). “Supranational Institutions and Regional Integration.” *Economic Commission for Latin America and the Caribbean*. Retrieved on February 15<sup>th</sup>, 2010 from <<http://www.eclac.org/brasil/noticias/paginas/2/22962/BEST-SUPRA-NATIONAL%20INSTITUTIONS%20AND%20REGIONAL%20INTEGRATION.pdf>>. pp. 16

and the monetary union in 1999.<sup>170</sup> This section will examine the process of integration that occurred in Europe in order to take into account their lessons learned. It should be noted that this paper is not advocating for the application of the European model to North America. North America has a unique nature in which it “has a single dominant state, has always been more market-driven, and more deferential to national autonomy than Europe.”<sup>171</sup> “It is characterized by complex, contemporary concerns that cannot be address with a cookie-cutter application of rules.”<sup>172</sup> However, the over fifty years of European integration is still important to examine in order to see which integration practices have been proven successful and unsuccessful, and how has it managed to address the barriers to integration as North American regionalization remains at a standstill.<sup>173</sup>

The early success of European integration was primarily due to the forces of neofunctionalism and spillovers. The integration of the coal and steel industry began the ‘domino effect’ of regionalization in that it resulted in the harmonization of transportation rules and methods of production.<sup>174</sup> In 1952, however, with the growing threat from the Soviet Union, the ECSC members proposed the Pleven Plan to establish “an integrated military force”<sup>175</sup> known as the European Defence Community (EDC) in order to collectively remilitarize without the fear of potential conflict reoccurring between France and Germany. The EDC was extremely ambitious project in which the member states sought to form a European army, barely two years after ECSC and five years after

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<sup>170</sup> Ibid. 27

<sup>171</sup> Pastor (2006) 212

<sup>172</sup> Anderson (2009) 11

<sup>173</sup> Pastor (2006) 213

<sup>174</sup> Europa (2009). Treaty constituting the European Coal and Steel Community.

<sup>175</sup> Gortemaker, M. (2009). “The Failure of the EDC and European Integration” in *Crises in European Integration: Challenge and Response, 1945-2005*.33-48. ed. Kuhnhardt, L. New York: Berghahn Books. pp. 39

WWII.<sup>176</sup> However, fearing the transfer of sovereignty over national defence, particularly involving Germany, France rejected to ratify the treaty.<sup>177</sup> This not only resulted in the collapse of the EDC, but it slowed down the drive for integration in Europe;<sup>178</sup> therefore, due to pressure by non-state actors, the six attempted to reinvigorate the drive for regionalization by primarily focusing on economic and sectoral integration.<sup>179</sup> The European Economic Community (EEC) was created in 1958 and was ultimately the functional expansion of the ECSC in which it progressively eliminated quotas and tariffs between member states.<sup>180</sup> Similar to North America, Europe attempted to ‘fast-track’ its integration into a “high politics” area, which not only resulted in a decline in cooperation, but it also led to reduced public support for regional integration due to fears of the hasty loss of sovereignty. By refocusing its efforts on economic integration and “low politics,” European integration was able to widen and deepen. Only until recently has the “EU run out of low visibility arenas for policy coordination,”<sup>181</sup> especially given the current economic situation where there are notions that EU may need to integrate fiscally or even politically in order to manage the economic crisis.

The EU’s principal members are comparable in terms of both population and power;<sup>182</sup> however, differences still remain between smaller states (Belgium and Luxembourg), poorer states (Greece and Portugal), and large states (Germany and France). In order to mitigate the power differences among its members, the EEC created a

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<sup>176</sup> European Navigator. (2009). The European Defence Community. *The European Navigator*. Retrieved from February 8<sup>th</sup>, 2010 from <www.ena.lu>

<sup>177</sup> Ergenhofer, C., Kurpas, S. & van Schaik, L. (2009). *The Ever –Changing Union: An Introduction to the History, Institutions, Lessons, and Decision-making Processes of the European Union*. Centre for European Policy Studies (CEPS): Brussels. pp. 9

<sup>178</sup> Europa. (2009). The Treaty establishing the European Economic Community.

<sup>179</sup> Egenhofer 9

<sup>180</sup> Europa. (2009). The Treaty establishing the European Economic Community.

<sup>181</sup> Malamud & Schmitter10

<sup>182</sup> Pastor (2006) 212

qualified majority voting (OMV) system whereby a policy had to be passed with a double majority (allocated by number of states and population proportionality); therefore, policies would not only be democratic and fair among states, but among the European population as well. This also allowed for smaller states to use their political bargaining power with one another in order to undermine the votes of larger states.<sup>183</sup> Throughout the 1960s, Europe experienced an era of “eurosclerosis” due to the Empty Chair Crisis and the Luxembourg Compromise, which created the unanimous voting system and reassured the power of states through veto.<sup>184</sup> The unanimity system resulted in a major slowdown and stalemate; however, in the 1980s, with growing pressure from interest groups and the inefficiency of unanimity, the EEC reinstated QMV in order “to speed up decision making” by reducing a number of policy areas subject to veto.<sup>185</sup> In examining the European model, in order to lessen the hierarchy of sovereignty among member states, it first requires political commitment as well as pressure by interest groups in order to establish a fair and agreed-upon voting system.

The need for political commitment, particularly from the U.S., applies for transnational institutions as well. The ECSC was a forward-looking model in which it created a transnational institution to push forward the European agenda (as well as ensure compliance) in the very early stages of integration. The institutionalization of Europe broadened with the creation of the European Commission, the European Court of Justice (ECJ), and the European Parliament (EP). Although, Europe is rich in transnational institutions, the establishment of the ECJ has been the most crucial institution due to its

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<sup>183</sup> Panke, D. (2010) *Small States in the European Union: Coping with Structural Disadvantages*. Surrey: Ashgate Publishing Limited. pp. 61

<sup>184</sup> Bache, I. & George, S. (2006). “The Single European Act” in *Politics in the European Union*. 157-165. Oxford: Oxford University Press. pp. 161

<sup>185</sup> Ibid.

role in creating greater integration. The ECJ was intended to serve as a “mechanism of international mediation to yield supranational jurisdiction over all member courts” in which it was able to “invalidate domestic laws” that came into conflict with the treaties.<sup>186</sup> In hindsight, the role of the ECJ to uphold European treaties unintentionally facilitated integration, “generating spillovers into other sectors.”<sup>187</sup> The ECJ was particularly prevalent during ‘eurosclerosis’ in which it established the direct application of Community law to counter the deadlock under the unanimous voting system.<sup>188</sup> Although the EU has several supranational institutions to promote and facilitate greater regionalization, the ECJ was the key driver of integration, not only because it was able to invalidate domestic laws that conflicted with European treaties, but it also did not venture into new, uncharted areas that would make states question its legitimacy. The ECJ was designed to legally interpret agreements that states have already signed onto. Unlike North America, political will to create transnational institutions as well as adhere continental agreements is strong in Europe. Although, European member states want to protect national interests, they also want to avoid conflicts that would derail the common market effort.<sup>189</sup>

## **VI. The Need to Revitalize Trilateralism in North America**

Robert Pastor argues that North America has missed its opportunity to create deeper integration through trilateralism;<sup>190</sup> however, as seen in Europe, regionalization ebbs and flows between periods of increased integration and slow integration. Yet, it

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<sup>186</sup> Howard 62

<sup>187</sup> Ibid.

<sup>188</sup> Stone Sweet & Sandholtz 315

<sup>189</sup> Best 25

<sup>190</sup> Pastor, R. (May 2009) “A Case for the Three Amigos” *The Globe and Mail* on 01 May 2009.

would be imprudent to believe that North America regionalization will naturally ‘pick up’; moreover, considerable effort ought to be made by all three states in order to push the North America agenda in the right direction that will ultimately create significant benefits to Canada, Mexico, and the U.S. However, in order to ensure future success of North American integration and the deepened relations among the three amigos, the condition of political commitment must be met. Not only do member states, particularly the U.S., need to commit to the pursuit of regional integration as well as adhere to the continental mechanisms, but they also must be willing to concede some of their sovereignty in order to reap the wide range of benefits regionalization creates. Without this condition, North American integration will remain shallow and the barriers of integration will continue to persist.

#### *A. The Establishment of Institutions*

The institutional weakness of NAFTA’s dispute settlement mechanism revealed its lack of legal ‘teeth’ and its inability to ensure compliance by its signatory states. Thus, there is a need to create a legal oversight mechanism, similar to the European Court of Justice, in which rulings regarding *continental* trade, environment, and labour laws are to be legally binding to ensure greater compliance to already agreed upon treaties. A body like the ECJ would function well within the North American model, given its “complex and contemporary” character. Although it does help facilitate integration, the role of a transnational court is not to undermine or further pool the sovereignty of its member states; rather, it is to ensure that Canada, Mexico, *and* the U.S. uphold their commitments

and regional obligations to allow for consistency and the rule of law within the North American system.

To address issues of institutional deficit, I recommend for the establishment of a North American Commission, not necessarily to promote further integration, but to manage the ‘tyranny of small differences’. In the North American context, an institution similar to the European Commission (in which it is responsible for proposing legislation, implementing decision, and promoting further regionalization) would not only require the significant pooling of sovereignty, but would need public support for increased supranationalism. The European Commission model would not be applicable, given the boogeyman and protectionist fears against the North American Union.<sup>191</sup> The North American Commission, however, would be primarily an advisory body that would propose harmonization of ‘low political’ policy areas in order to create more economic and trade efficiency among the three countries as they become increasingly interdependent.

### *B. Effective Management of the Security-Economic Nexus*

With the merge of security and economics following 9/11, regional security and the ‘efficient’ protection of the North American security perimeter became the top priority of the continental agenda. Yet, as this paper has argued, the security-economic nexus has not only failed to bring greater security to the North American space (as seen with the increase of drug-trafficking related violence in Mexico) but has also been unsuccessful in mitigating the negative economic effects of the thickening border;<sup>192</sup>

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<sup>191</sup> Anderson (2009) 7

<sup>192</sup> Pastor (2010) 15

therefore, the North American agenda should refocus its attention on economic integration through the continuous reduction of tariffs, as well as regulatory harmonization in order to eliminate the ‘small differences’ that obstructs the flows of free trade. Stricter requirements and longer border wait times are only one factor that has contributed to economic slowdown; however, in order to lessen the negative effects of enhanced security measures, the North America agenda must focus on harmonizing regulations, particularly technical policies to create functional spillovers, not only to facilitate the movement of goods across borders, but also to further strengthen the economic interdependence of North America.

Security integration remains heavily intertwined with economic integration, particularly with the heightened threat by transnational actors; therefore, the integration of security measures between Canada, Mexico and the U.S. is necessary in order to effectively protect and manage the North American perimeter. Yet, the ‘muddle-about’ character of North American regionalization has proven to be insufficient in that with the rise of transnational security threats, it is evident that transnational policing efforts are required in order to effectively manage it. Using Robert Pastor’s recommendation, I advocate for a transnational border management mechanism in which “all three countries would design a single approach with similar rules and requirements and jointly-trained personnel to manage the continental border. This unified and integrated unit would counter “the fragmented approach by agencies within and between the three governments” as well as increase the efficiency of border management with a single set of rules, procedures, and requirements; however, it is critical that “single border team” be done in collaboration of its Mexican and Canadian partners, rather than being determined

by the U.S. Thus, the U.S. must be willing to give some concessions regarding immigration, particularly from Mexico, in order to ensure an equitable and deepened agreement.<sup>193</sup>

### *C. How to tame the Gorilla*

The deterrence of asymmetrical power relies heavily on the condition of political commitment for regionalization being met, particularly from the U.S. Once this condition is met, other mechanisms can be put in place to ensure a more equitable relationship between the three amigos. Trilateralism in the post-9/11 era primarily suffered due to Canada's reluctance to strengthen its relations with Mexico. Since dual-bilateralism has not brought about significant benefits and contributed to the enlarged hierarchy of sovereignty, Canada must take the initiative in improving its relations with Mexico. Deeper relations with Mexico will not only help Canada in managing the dominance of the U.S., but would also assist in the economic and political development of Mexico, and in turn, North America. "Canada should invest more political and economic resources in engaging Mexico City. The challenges of development for Mexico are of critical importance to North America to function effectively as an engine of economic growth. Labour mobility and immigration concerns are not just American or Mexican problems. These are also Canadian concerns, since they complicate and slow the pursuit of Ottawa's interests in North America."<sup>194</sup> The best path to Washington is through Mexico City in that by coordinating a North American strategy with Mexico and working trilaterally, the

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<sup>193</sup> Ibid.

<sup>194</sup> Anderson (2009) 11

probability that the U.S. will not only give Canada the attention it deserves, but the chances of acceptance on its bilateral policy issues will rise substantially as well.<sup>195</sup>

Another deterrence mechanism would be to create a voting system at the ministerial level in order to provide consistency and equity when creating new trilateral agreements. A voting mechanism would also help facilitate further trilateralism and economic interdependence as well as ensure that the continental issues do not get lost in the bureaucratic complex; however, it would not follow the European QMV model. Due to the gap between the three amigos' population and power, as well as the small number of member states involved, a trilateral voting system in North American would require a "one country, one vote" in order to ensure fairness in the voting process.

## **VII. Conclusion**

As the forces of globalization continue to push the boundaries of state sovereignty, new forms and mechanisms of governance are established in order to adequately manage the effects of economic liberalism and diminishing political and territorial barriers. Following the collapse of the Bretton Woods system in the 1970s, states looked towards regionalization as a substitute to multilateralism due to locational proximity, similar markets, existing infrastructure, and restrictive membership. Today, there are many regional organizations including the EU, Mercosur, ASEAN, African Union (AU), Caribbean Community (CARICOM), and the Arab League. In addition to the regional organizations, there are numerous regional integration agreements and trade blocks such as NAFTA, Central American Integration system to name a few. Regional integration has become an increasingly accepted mechanism of governance not only due

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<sup>195</sup> Pastor (2010) 15

to the increased cooperation between neighbouring states, but for the widespread economic benefits it creates. With this being said, North America, one of the largest trading blocs with the membership of the world's only superpower, has failed to 'hop on' to the regionalization train following the signing of NAFTA, particularly after 9/11. Why has North American integration come to a standstill?

This paper examined the main barriers to North American integration that have not only slowed down the drive for regional cooperation, but has ultimately created new obstacles that significantly hinder future prospects of regionalization. North America integration is void of any substantive institutions in that not only were the NAFTA bodies (dispute settlement mechanism, NACEC, and NACLC) unable to push forward the continental agenda, but they were not even capable of ensuring adherence by its member states. Without any pooling of sovereignty or political commitment to uphold the agreement, the brief success of NAFTA was bound to come to an end.

Following the events of 9/11 and the heightened U.S. security agenda, issues of security and border management became increasingly interlinked with issues of trade and economics. North American regionalization came at a crossroads in which it could have deepened trilaterally in order to collectively managed the global threat of terrorism, or maintain the status quo. Deepened continental integration fell short, and dual-bilateralism came to the surface. The enhanced U.S. security agenda, and in turn, the new North American agenda, created two significant barriers in which it not only failed to address the economic consequences of security integration, but it also created a greater hierarchy of sovereignty between the U.S., and Canada and Mexico. Thus, fast-tracked integration void of adequate transnational institutions will not serve to deepen the North American

space, and will ultimately create greater barriers to regional integration, evident by the collapse of the SPP negotiations and the skeptical futures of the *Merida Initiative* and the *Beyond the Border Plan*.

Although the fate of North American regionalization appears grim, the lessons from Europe demonstrate that the success of regional integration. Not only does North American integration require functional spillovers, adequate institutions, and democratic mechanisms to ensure equity and fairness, but it also fundamentally requires the political commitment of its member states to concede some of its sovereignty in order to create widespread benefits for the U.S., Canada, and Mexico.

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