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Border Crossing Issues and Prospects for Freight

**The Transportation Center
April 14, 2010**



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THE THREE PILLARS

**STRUCTURE AND GOVERNANCE
PROGRAMS
DEVELOPMENT**



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Three Observations

Recalibrate
Review/Reform
Vigilance



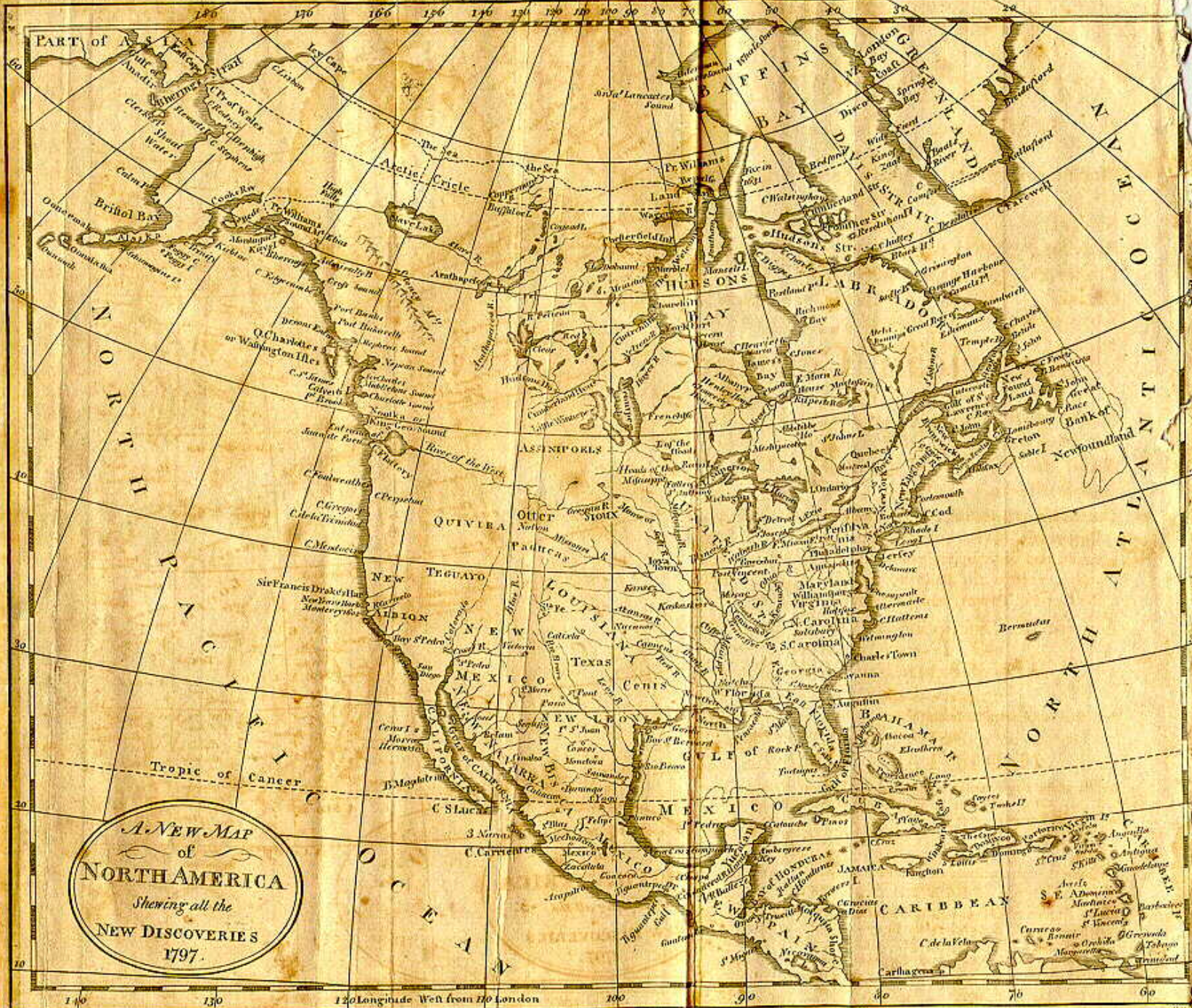
North America's Physical Features

The continent of North America is characterized by a diverse range of physical features, including the Rocky Mountains, the Appalachian Mountains, and the Great Plains. The map shows the distribution of these features across the continent, with the Rocky Mountains running north-south through the western part of the continent and the Appalachian Mountains running north-south through the eastern part. The Great Plains are located in the central part of the continent.

The map also shows the distribution of major water bodies, including the Pacific Ocean, the Atlantic Ocean, the Gulf of Mexico, and the Hudson Bay. The map is overlaid with a grid of latitude and longitude lines, which are used to locate specific points on the map.

Map of North America

Map of North America



A NEW MAP
of
NORTH AMERICA
Shewing all the
NEW DISCOVERIES
1797.



U.S./Canada Border Overview

Facts

- Longest common border that is not militarized or actively patrolled
- 4,000 miles contiguous U.S.—5,500 altogether (U.S./Mexico border is 2,000 miles)
- 12 states, 8 provinces & 1 territory
- 51 million Americans and over 30 million Canadians
- 90% of Canadians live within 100 miles

The United States and Canada face common challenges

- The global financial crisis
- The emergence of powerful economic competitors such as China and India
- The need to stimulate economic growth and promote job creation
- The need to maintain security

But we also share mechanisms that can help us respond to these challenges...

- Both countries are highly industrialized, well established democracies;
- Both are leading members of numerous important economic and political organizations, including the G8, APEC and NATO;
- Both are partners in a North American Free Trade Agreement that has nurtured the largest and most complex economic partnership in the world.

And we have an established relationship upon which we can build...

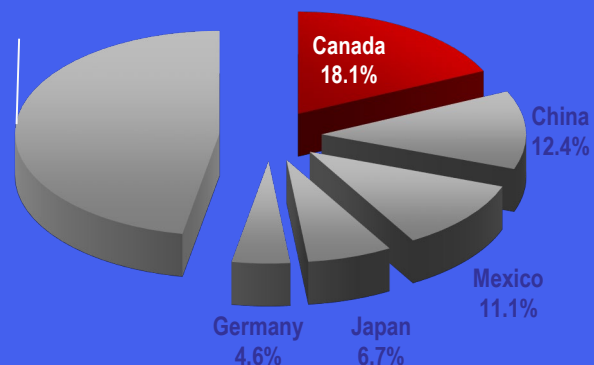
- Canada is by far the largest buyer of US goods: nearly \$250 billion in 2007.
- More than 7 million US jobs are supported by trade with Canada
- More than 15,500 companies in the US are Canadian owned: they employ 533,000 Americans
- For every \$1 worth of goods China buys from the US, Canada buys \$4.
- More than 59% of our bilateral trade moves by truck: a truck crosses the border between us every 2.5 seconds.

...we can use this to strengthen both countries.¹⁰

Canada-U.S. trade

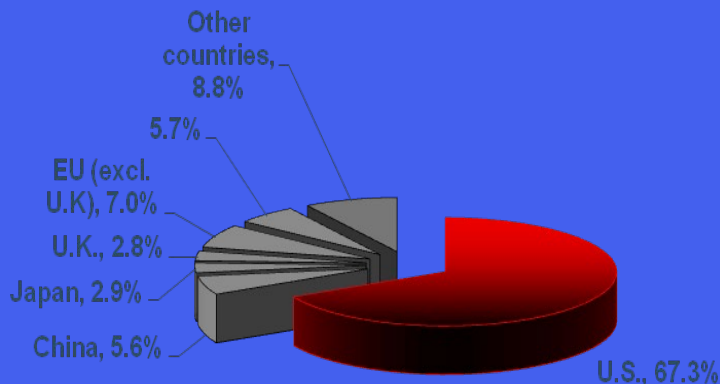
Canada's trade with the US is more than twice the size of its trade with the rest of the world.

Distribution of U.S. Merchandise Trade* - 2007



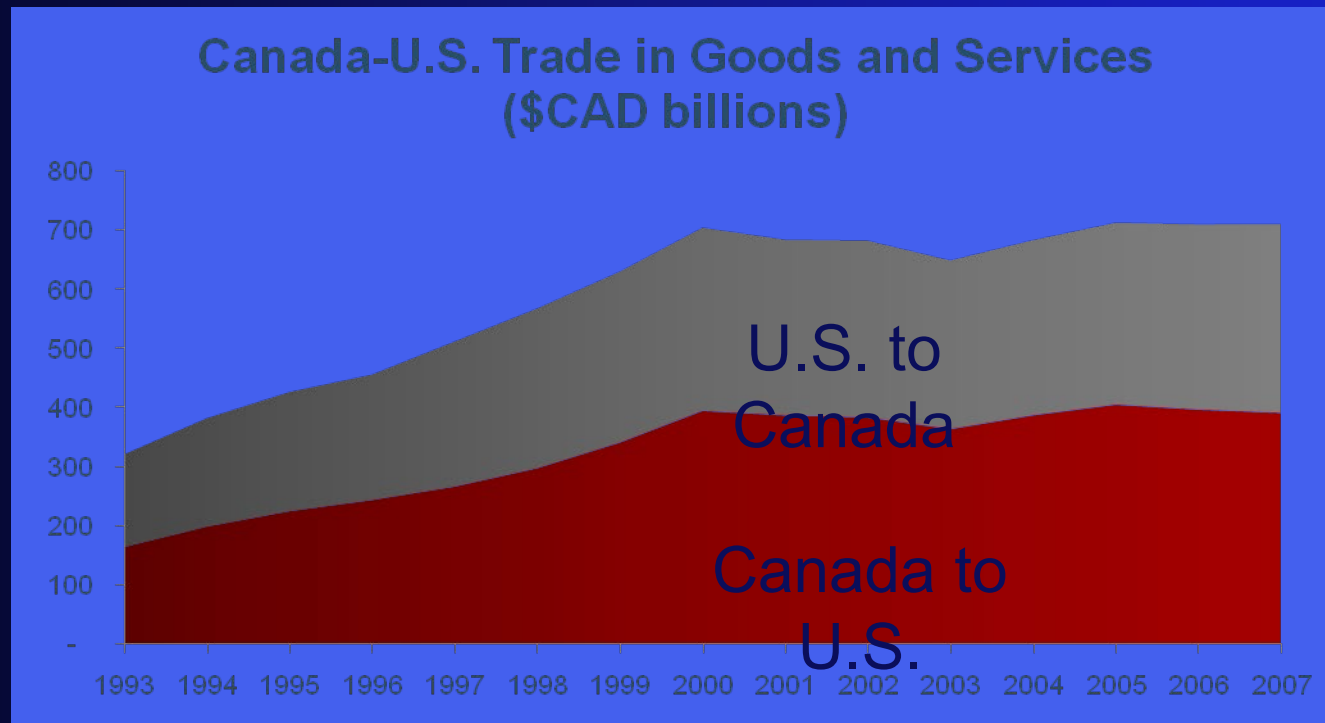
Source: U.S. Census Bureau, via World Trade Atlas

Distribution of Canadian Merchandise Trade - 2007



The US trades more with Canada than with any other country.

Canada and the US enjoy the largest trading partnership in the world...



Source: Statistics Canada

Two-way trade in goods and services totaled USD \$660.6 billion in 2007: trade was flowing between the two countries at a rate of about USD \$1.3 million dollars a minute!!!

And this is not just typical bilateral trade...

- Almost a fifth of our merchandise trade is in automobiles, trucks and parts: one of the world's largest single integrated industrial value chains;
- More than half of total merchandise trade is in a wide assortment of materials and products (i.e. plastics, machinery, medicines, equipment) used as inputs for other goods;
- One third of Canada – U.S. border shipments represent intra-firm trade according to the U.S. Bureau of Economic Analysis



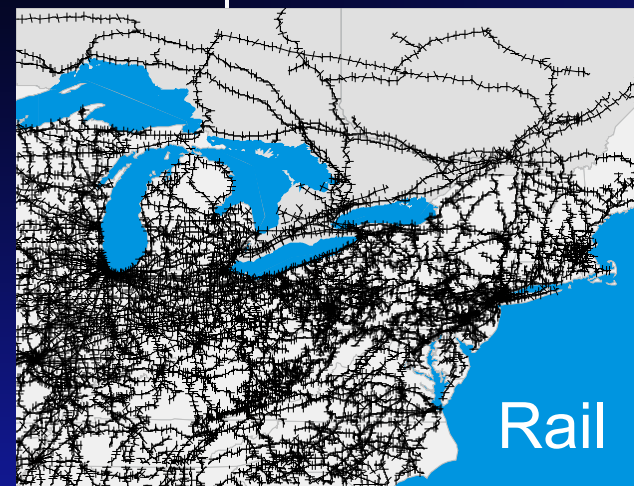
... Our trade is based on the fact that we make things together!

Geographic proximity

- Many Canadian production hubs are closer to key US markets than corresponding American centres.
- Of Canada's 20 largest cities, 17 are within 100 miles of the border.



Our relationship is strong because our two economies are fully interconnected...



From an infrastructure perspective, the border is not obvious

North American Gas Pipeline Grid



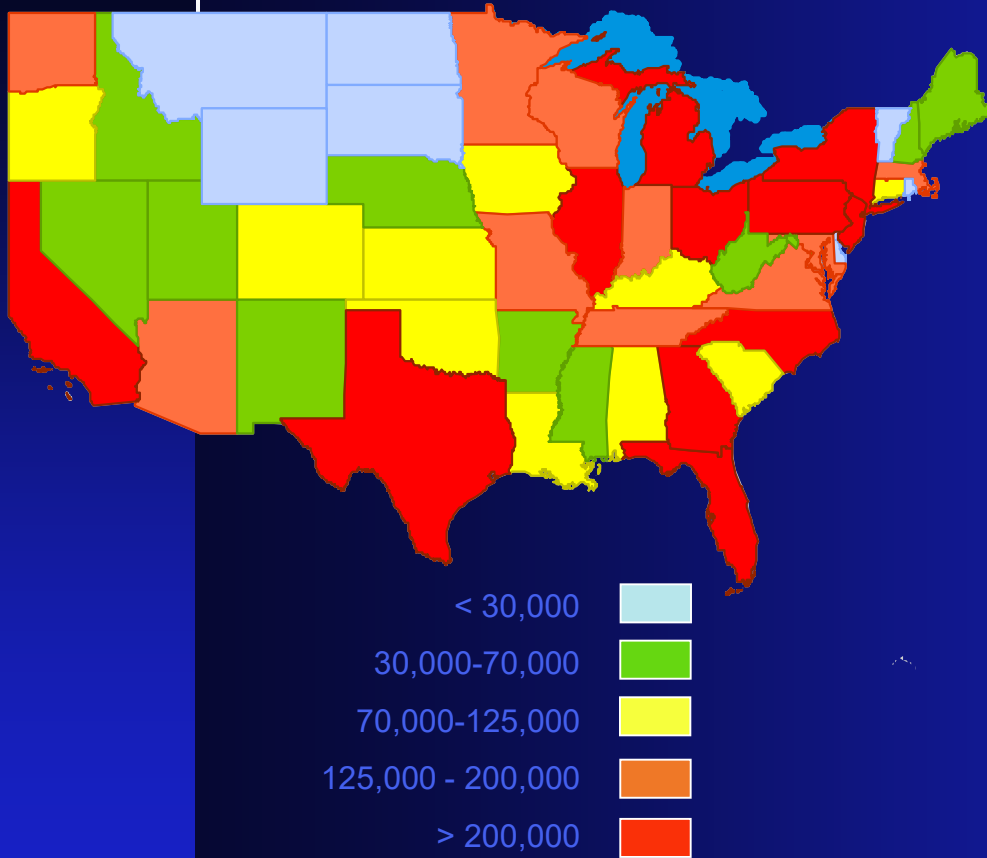
North American Crude Oil Pipeline Grid



Physical integration supports a huge trade in energy...

- This is the 16th consecutive year in which Canada has been the largest supplier of oil to the U.S. and it continues to be its largest source for all forms of energy.
- In 2007, Canada's energy exports to the U.S. were worth USD \$83.8 billion.
- Canada supplied 15.5 percent of U.S. imports of crude and non-crude oil – about 2.5 million barrels a day. This trade will continue well into the future since Canada contains an estimated 179.2 billion barrels of recoverable oil, second only to Saudi Arabia.
- Canada also provided 82.3 percent of all U.S. natural gas imports and approximately 11.2 percent of U.S. uranium imports.
- Canada is the United States' single most reliable and secure energy partner.

The Canada-U.S relationship creates jobs for Americans...



- For 35 of the 50 states, Canada is their most important export market;
- Most of the rest have Canada as their 2nd or 3rd most important market;
- These states are not confined to the border, but are spread across the entire country;
- It is estimated that Canada-U.S. trade supports more than 7.1 million U.S. jobs.

Based on modeling changes in import and export flows in the context of a global general equilibrium model of world trade benchmarked to 2001 U.S. production and international trade.

And our partnership is part of a larger North American context....

- The U.S. is also Mexico's largest trading partner
- Mexico is the U.S.'s 3rd largest trading partner after Canada and China
- Mexico is Canada's 5th largest trading partner
- NAFTA is clearly working: there has been a five-fold increase in two-way merchandise trade from 1993 to 2007 – an average annual growth of 12.0%
- As a result, NAFTA has emerged as one of the world's largest economic regions (29.8% of global GDP).

... these advantages can help us weather the current period of global uncertainty.

Our close economic partnership benefits ordinary American families...

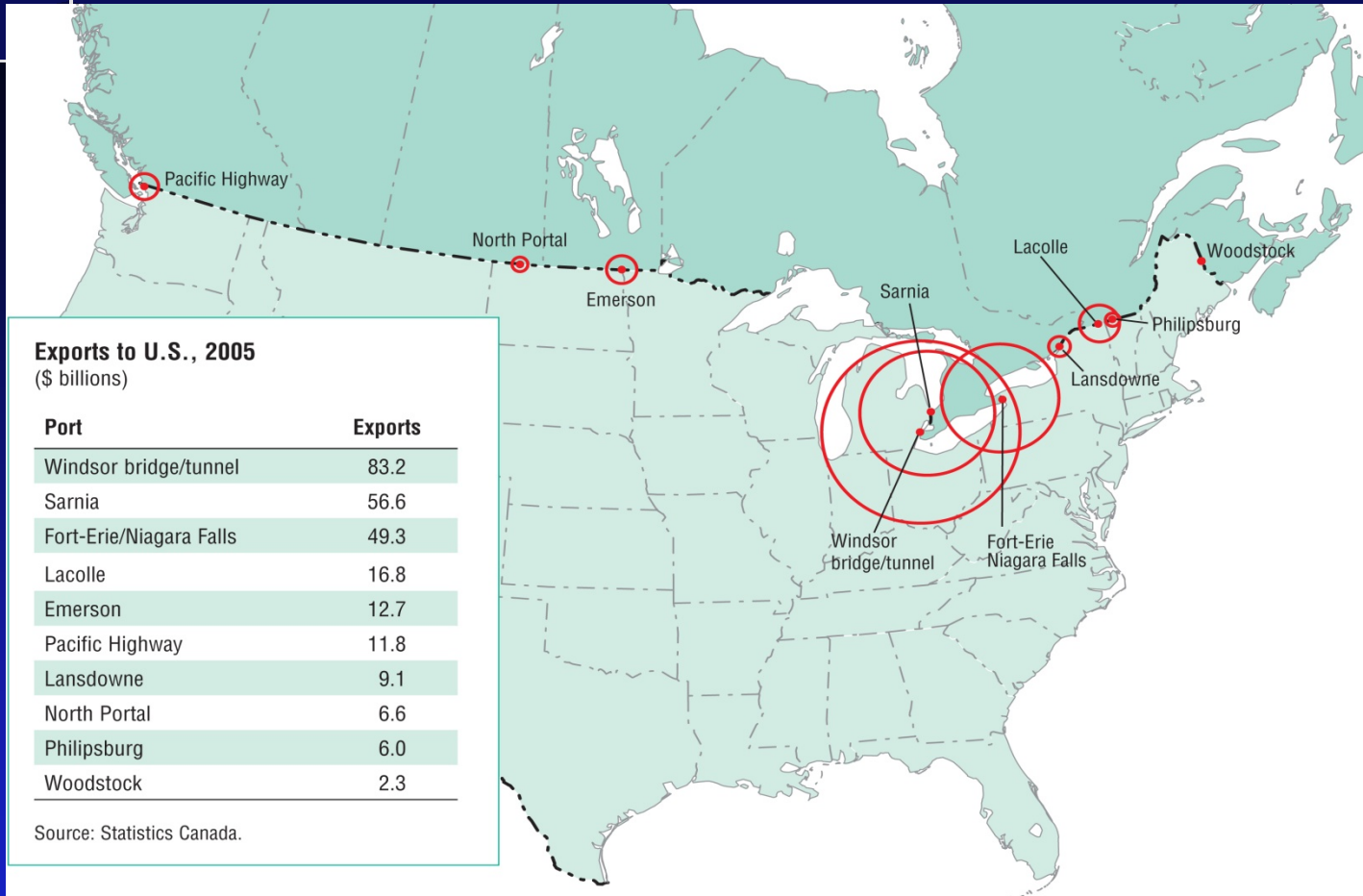
- NAFTA makes consumer goods cheaper in both of our countries.
- The average American family saves up to \$2000 a year directly as a result.
- Export related jobs provide above-average wages to U.S. workers.

That is why people on both sides of the border favour continuing our close partnership...

- Approximately 66% of Canadians and 75% of Americans favour stronger ties with each other.
- Approximately 72% of Canadians and more than 66% of Americans would like to see improved transportation ties, which would involve more integrated railways, highways and air transport. Approximately 57% of Canadians and Americans feel their country would be worse off without NAFTA.

Source: SES Research Oct. 1. 2007

But the size and diversity of the relationship hides a constraint



Most of our trade flows through only a few border crossings.

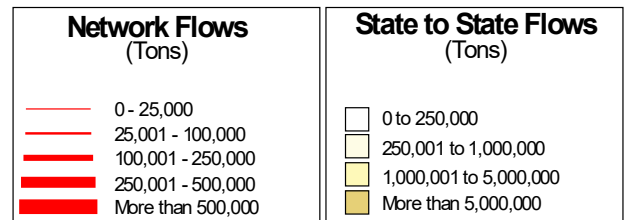
Source: Conference Board of Canada



U.S. Department of Transportation
 Federal Highway Administration
 Office of Freight Management and Operations
 Operations Core Business Unit

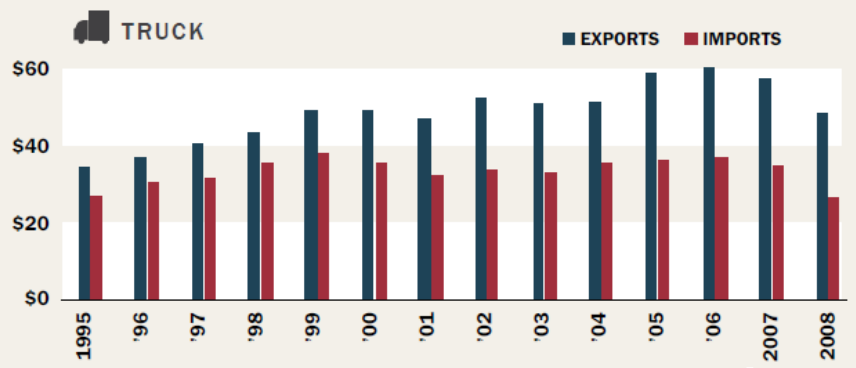
MICHIGAN

Total International Truck Flows (1998)



POROSITY: TRADE FLOWS, 1995-2008

NORTHERN BORDER TRENDS



VS, 1995-2008, IN BILLIONS

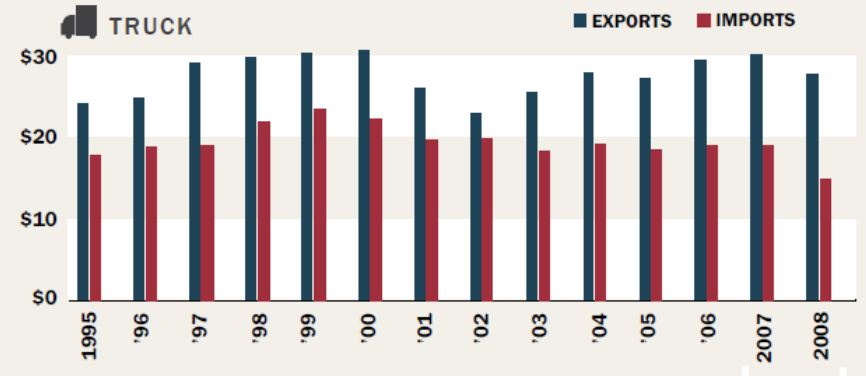
EXPORTS IMPORTS
BUFFALO

	2007	2008
EXPORTS	\$57.1 billion	\$48.5 billion
IMPORTS	\$35.0 billion	\$26.3 billion



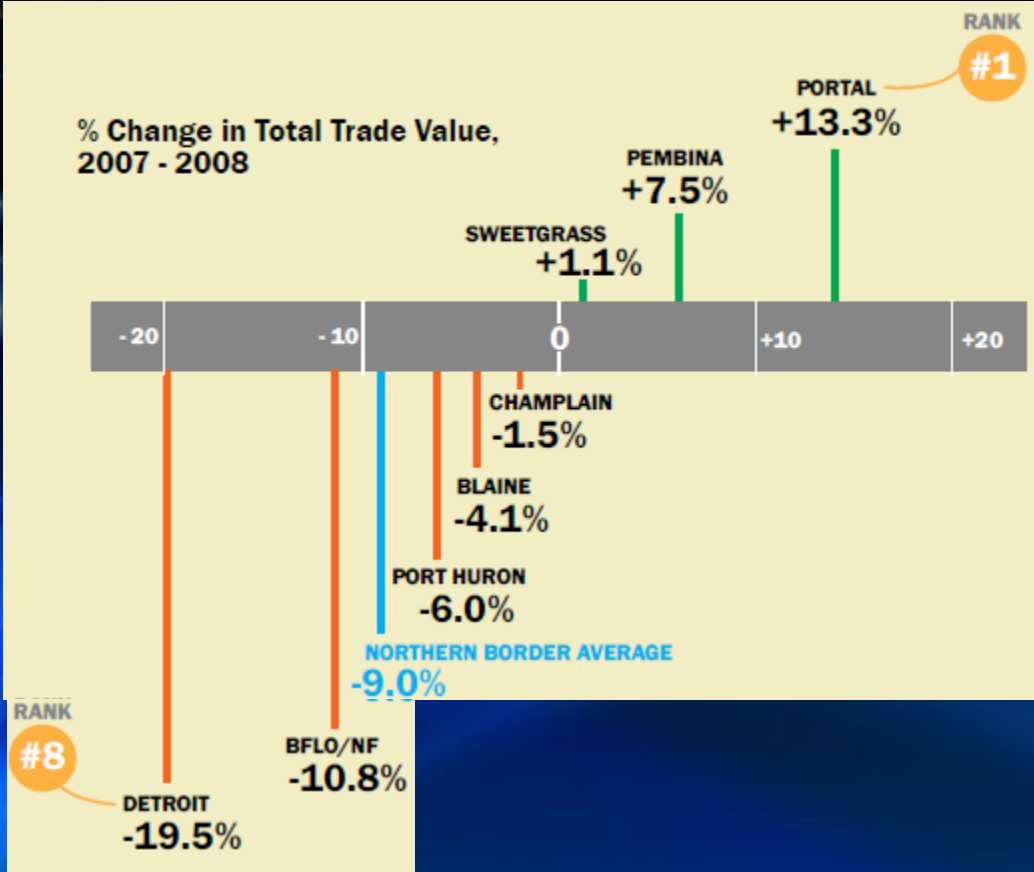
EX
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POROSITY: TRADE FLOWS, 1995-2008, IN BILLIONS

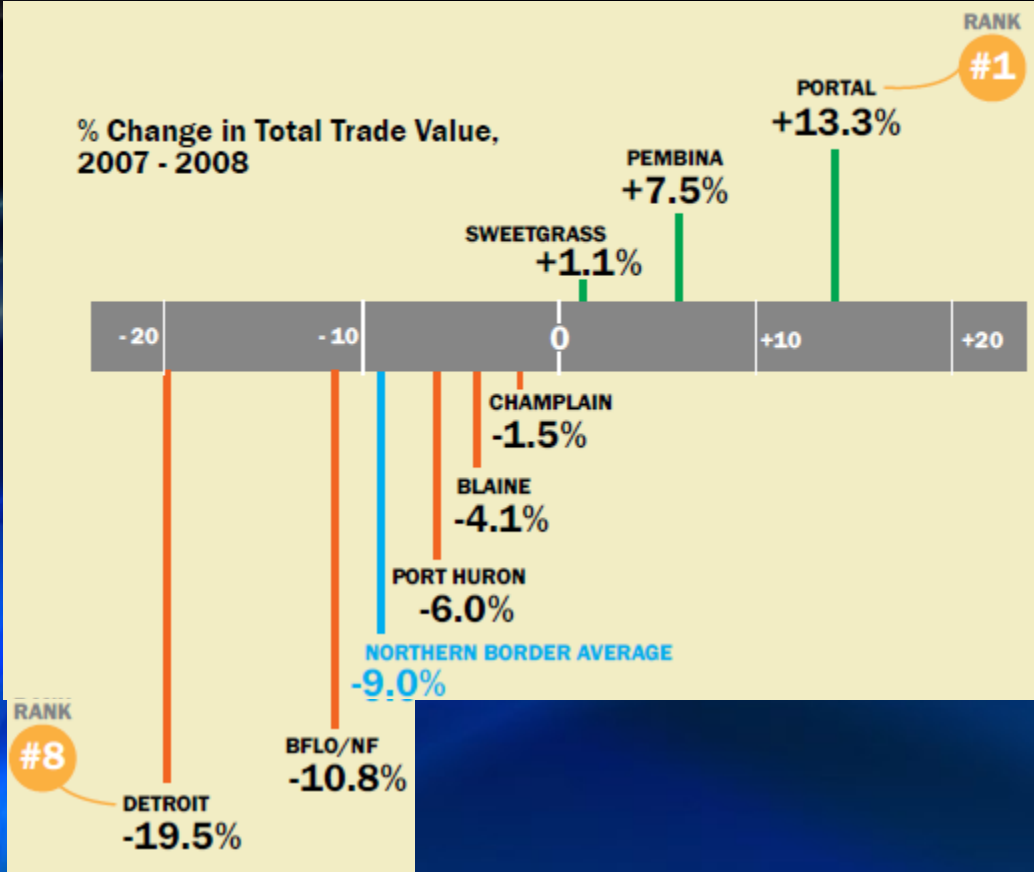


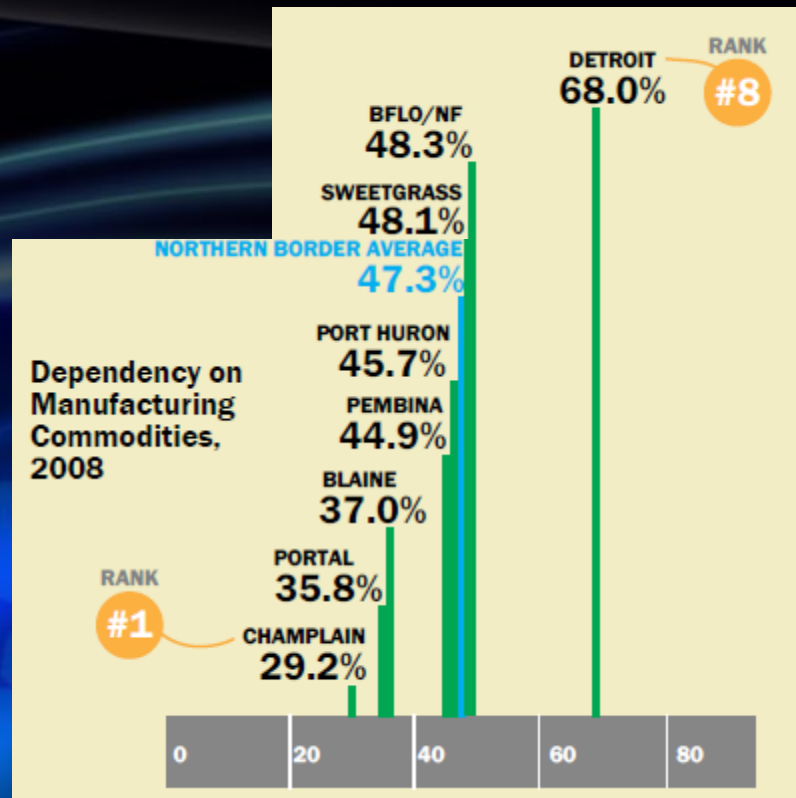
	2007	2008
EXPORTS	\$30.7 billion	\$28.4 billion
IMPORTS	\$19.4 billion	\$15.2 billion

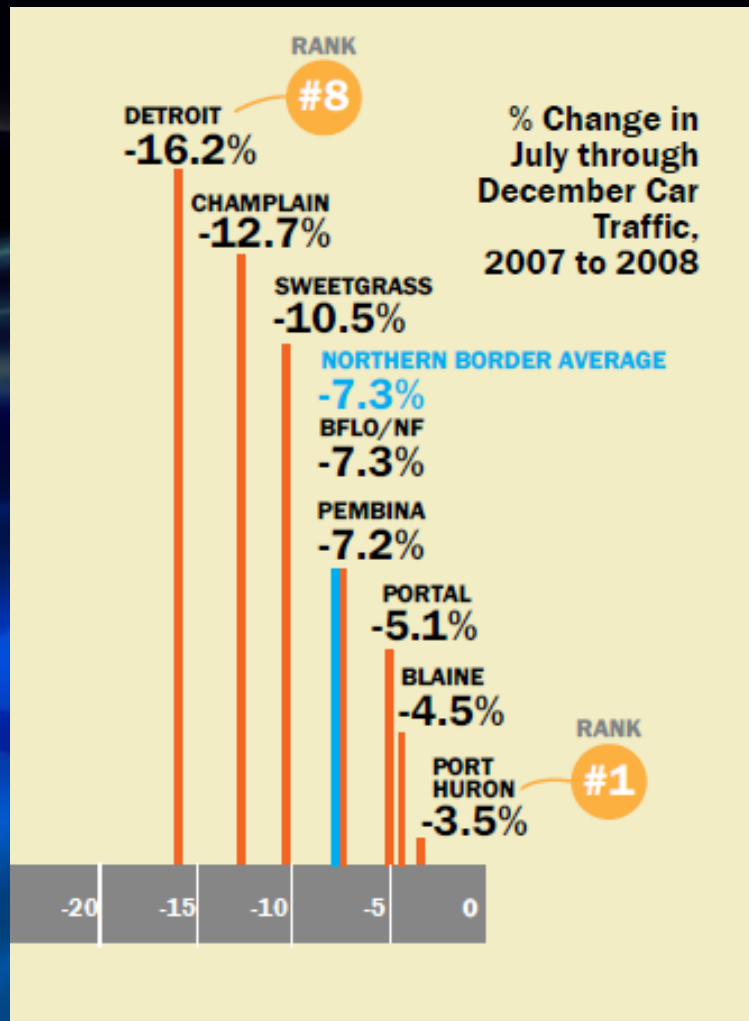
% Change in Total Trade Value, 2007 - 2008



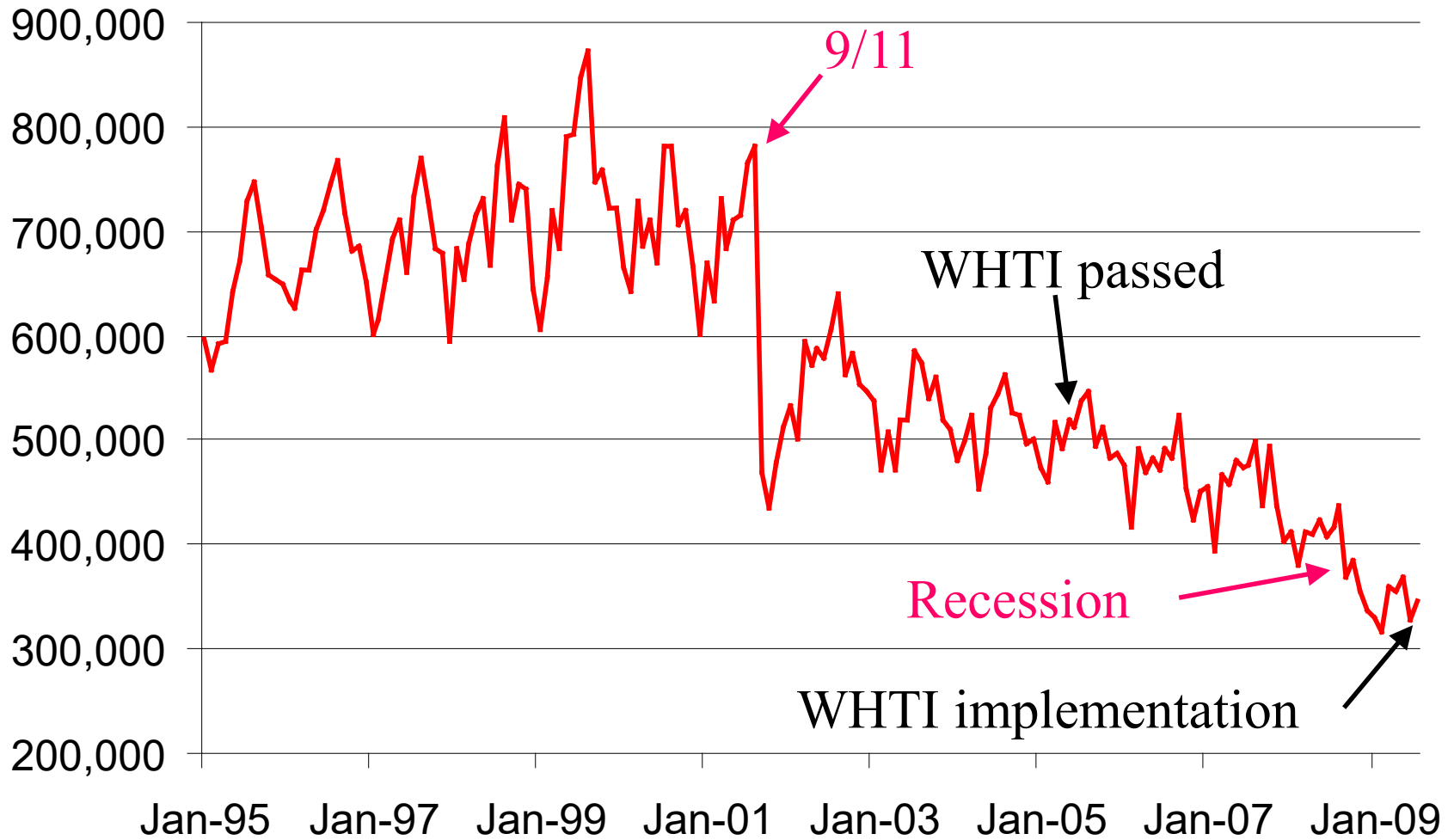
% Change in Total Trade Value, 2007 - 2008





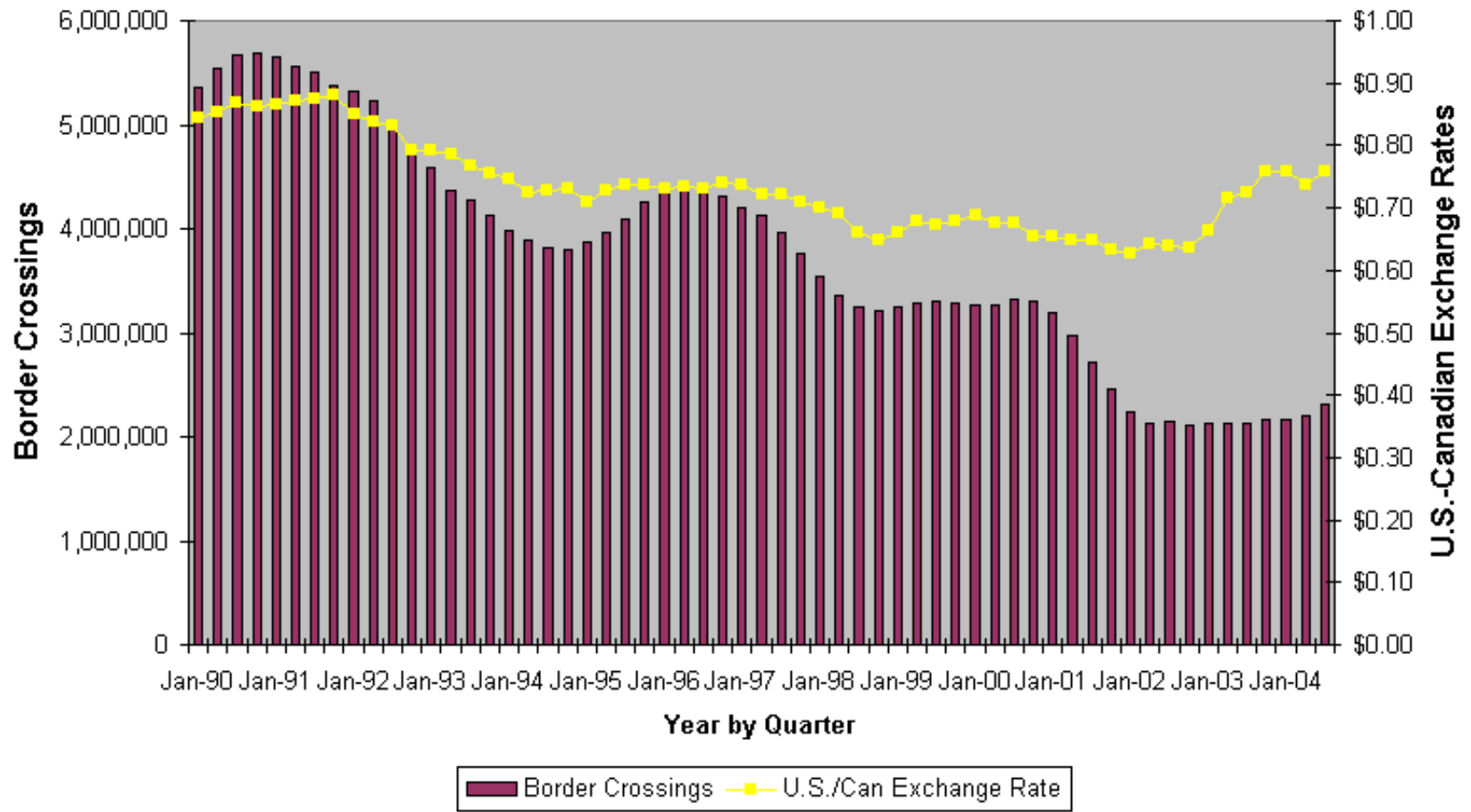


Detroit Area



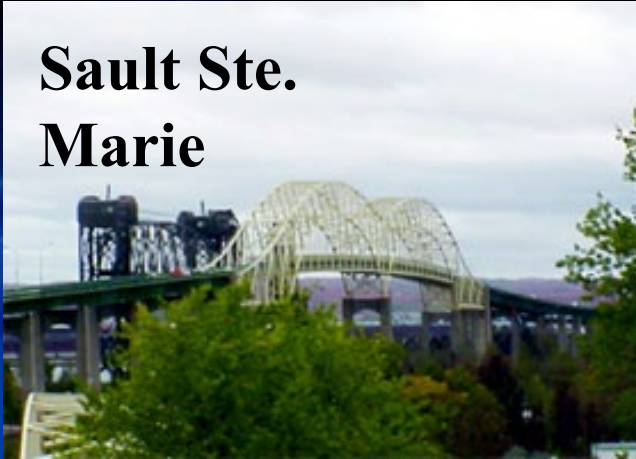
U.S./Canada Border Overview

Border Crossings and U.S.-Canadian Exchange Rates

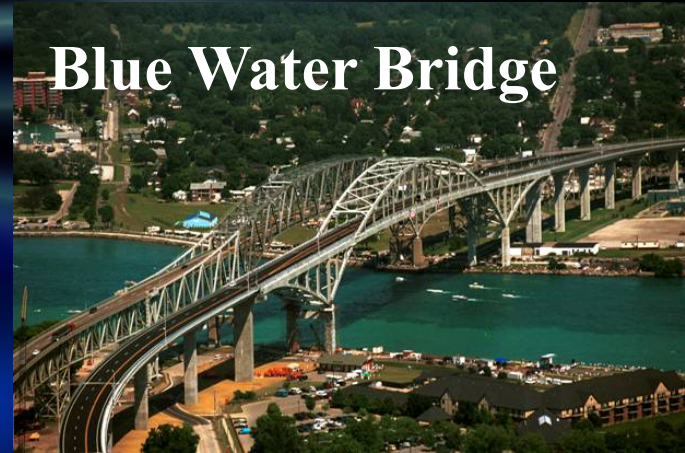


Michigan's Borders

**Sault Ste.
Marie**



Blue Water Bridge



**Detroit- Windsor
Tunnel**



**Ambassador
Bridge**







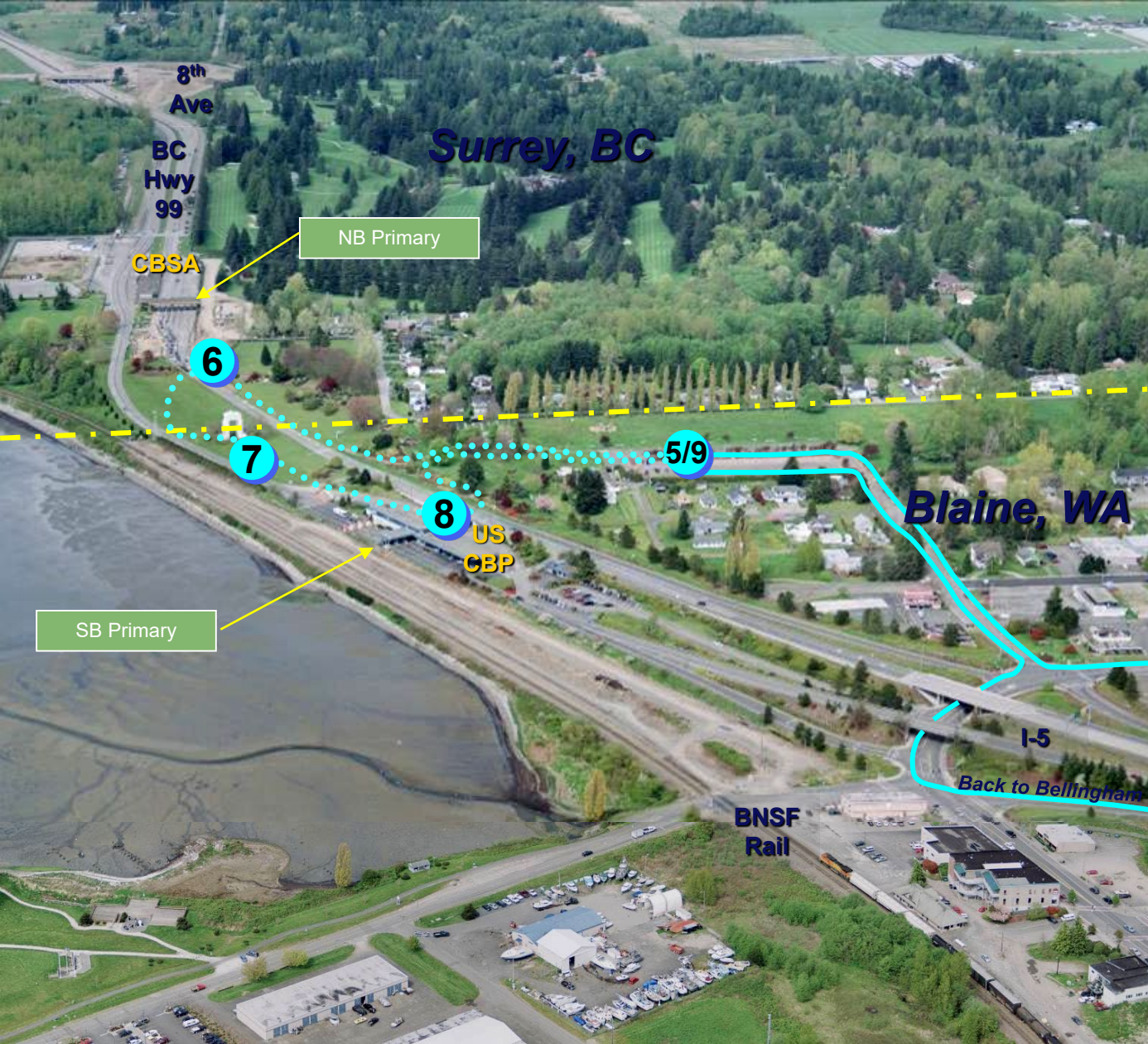
TBWG Border Tour Overview

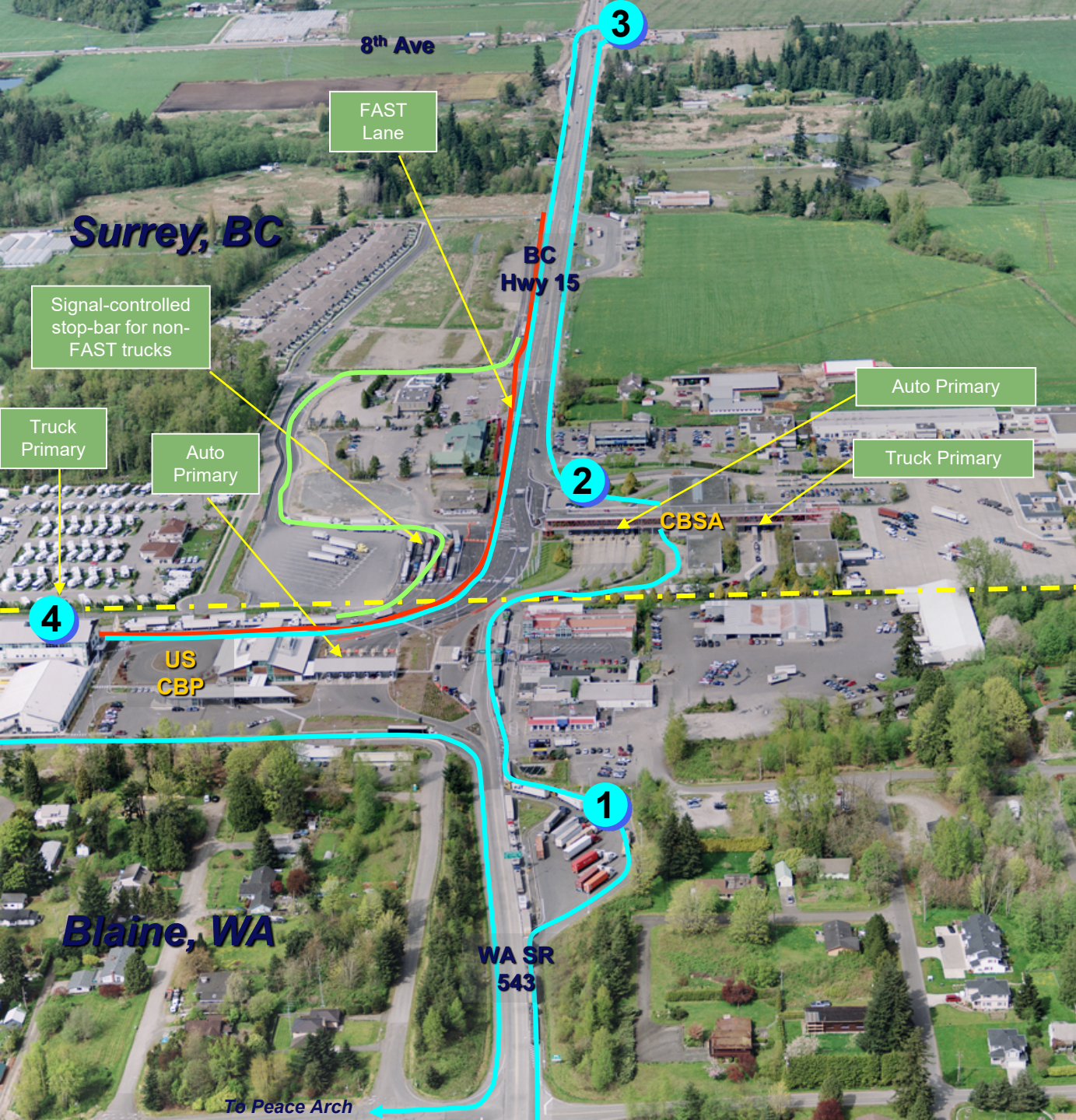
Peace Arch

- 5 Arrive at WA side of **Peace Arch State Park** and get off the bus.
- 6 Walk in the park to southern **edge of CBSA station**. Discuss facility re-build underway, NEXUS, ATIS, etc.
- 7 Walk along **SB lanes**: NEXUS, ATIS, etc. Peace Arch monument.
- 8 **North side of CBP station**. Facility replacement planning, US VISIT outbound equipment.
- 9 Back to the bus and back to Bellingham.

Legend

- Border 
- Tour bus route 
- Walking route 
- Tour points 





TBWG Border Tour Overview

Pacific Highway Port of Entry

- 1** **WA SR 543 truck pull-out area.**
Look at current construction preparation and future realignment of truck approach to CBSA.
- 2** **North side of CBSA facility.**
Look at future route of NB FAST lane. Look at SB traffic channelization: FAST, bus, non-FAST, auto, NEXUS, etc.
- 3** **8th Ave & Hwy 15.** Look at recent improvements (8th, 15th) and discuss soon-to-start extension of FAST lane from 4th to 8th.
- 4** **FAST lane:** . The bus will travel back south and clear through the FAST lane.

Legend

- Border - - - - -
- Tour bus route —————
- Walking route
- Tour points **1**
- SB FAST trucks —————
- SB non-FAST trucks —————



Infrastructure

- Bridges, Tunnels, Ferries oh my!
- Private ownership
 - Detroit River International Crossing (DRIC)
 - Blue Water Bridge Authority
- Hybrid Quasi Governmental
 - Buffalo and Fort Erie Bridge Authority
 - Niagara Falls Bridge Commission
- Governmental
 - Joint International Bridge Authority

**International
Trade**

=

**Michigan
Jobs**

Michigan ranks 8th in nation at 221,500 jobs supported by US-Canada trade. (Canadian Embassy Report)

The bi-national feasibility study reports that as many as 25% of Michigan jobs are directly/indirectly tied to trade & tourism with Canada.

Gateway Project

- Project improves direct access to Michigan's Highway System
- Provides access to a new International Welcome Center and Mercado

Completed Project



DRIC

Need for Project

- Capacity
- System connectivity
- Processing capability
- Reasonable and secure crossing options



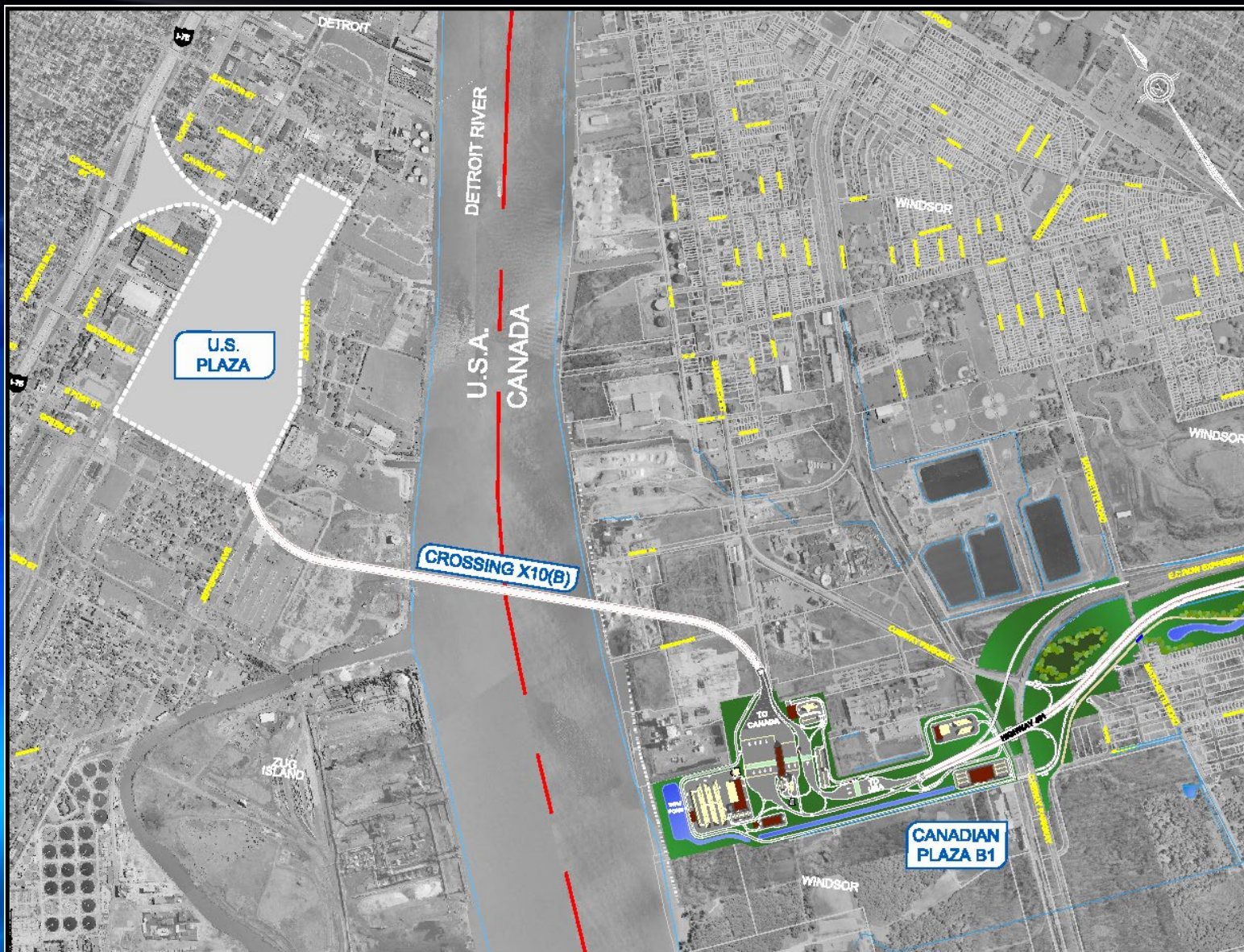
Why a New Crossing at Windsor-Detroit?

Busiest commercial land border in North America. Each year at Windsor-Detroit:

- More than 3.5 million trucks and 12 million cars cross both ways;
- More than \$122 billion (25% total Canada-U.S. trade) flows through;
- Approx. 28% of Canada-U.S. road trade crosses.

Under high-growth scenarios, cross-border traffic demand could exceed the capacity of the present border crossings at Windsor-Detroit as early as 2015.

DRIC – An End-to-End Solution



DRIC Governance

- Michigan and Transport Canada are pursuing a Public-Private Partnership to finance and deliver the DRIC
 - Public ownership
 - Private financing, construction, operations, and maintenance
 - Protect the Public Interest
- Investment Grade Traffic and Revenue Study underway
- RFPOI issued January 27, 2010
- Financial Model development underway
- Legal Services RFP posted February 2, 2010
- Michigan needs legislative authority to:
 - Enter into a public-private partnership
 - Enter into an agreement with Canada to build DRIC
 - Charge tolls



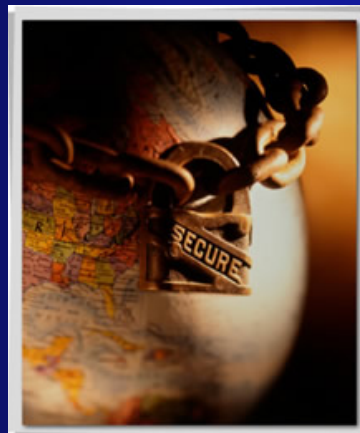
Customs-Trade
Partnership Against Terrorism

The purpose of the C-TPAT to better secure the supply chain from hostile intent:

- Importers must know and enlist support for the goals of C-TPAT from each link of their supply chain
- ISF requires importers to solicit specific information from these links
- CBP offers benefits for these actions

2009 C-TPAT Update

- CBP has validated approximately 10,994 C-TPAT members since 2003
- CBP has completed 2,598 re-validations
- CBP is five times less likely to inspect C-TPAT members' cargo at U.S. ports of entry



C-TPAT Benefits

- Faster processing at the border
- Reduced inspections; first-in-line treatment when inspections are necessary
- First-in-line treatment for business resumption
- Eligible for the Importer Self Assessment Program (ISA)
- Land border crossers eligible for Free and Secure Trade (FAST)
- Beginning in January 2010, an additional mitigation of up to 50 percent of the normal mitigation amount for an ISF penalty, depending on C-TPAT tier level
- C-TPAT Supply Chain Security Specialist (SCSS) provides a point of contact within CBP
- Access to C-TPAT membership list

ISF and C-TPAT

- With ISF, CBP is elevating security-related requirements by mandating additional advance data filing in 2010
- C-TPAT compliance prepares companies for ISF
- Direct symbiotic relationship between C-TPAT and ISF
 - CBP provides ISF progress reports directly to C-TPAT Tier 3 members
 - Beginning January 2010, an additional mitigation of up to 50 percent of the normal mitigation amount for an ISF penalty, depending on C-TPAT tier level

C-TPAT Today

- Strengthening government-business collaboration and information exchange
- Encouraging foreign governments' supply chain security efforts
- Expanding eligibility to achieve a trusted trader network

Impact of a thicker border on a medium-sized automotive parts manufacturer...

- Overall shipment or transit times increased due to border delays
- Transit times for shipments to Michigan increased on average by 35% (from 6 to 8 hours)
- Carrier costs have also increased significantly

Summary of cost increases:

Direct Costs =	\$1,637,500
Capital Costs =	\$ 32,000
Processing Costs =	\$ 633,750
Total Cost =	\$2,303,250

Reduction in competitiveness vis-à-vis international rivals



0.14% of total shipments value
1.9% of before-tax profits
3.3% of after-tax profits

Source: CME

A large cargo ship is docked at a port, with its deck stacked high with shipping containers. The ship's complex rigging and masts are visible against a dark sky. A purple arrow points from the left towards the ship, containing the text 'Importer Security Filing'.

10+2

Importer Security Filing

- CBP enforcement begins January 26, 2010
- Enforcement will be “gradual and progressive in nature”
- In next 6 months, CBP to identify importers and carriers not complying with ISF rule
- CBP to continue to issue Progress Reports
- CBP to issue warning letters
- Do not expect Do Not Load messages or Liquidated Damages
- But – each violation on case by case basis
- If non-compliant, CBP may increase port examinations
- By October – full enforcement mode



Interim Final Rule “10+2”

“Importer Security Filing and Additional Carrier Requirements”

Docket Number USCBP-2007-0077

ACTION: Interim final rule, solicitation of comments.

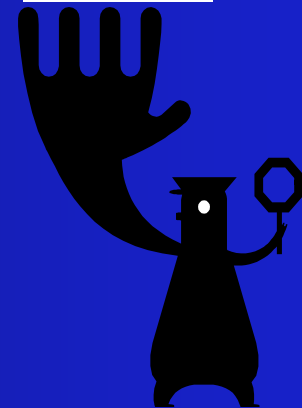
SUMMARY: To help prevent terrorist weapons from being transported to the United States, vessel carriers bringing cargo to the United States are required to transmit certain information to Customs and Border Protection (CBP) about the cargo they are transporting prior to lading that cargo at foreign ports of entry. The required information is reasonably necessary to improve CBP’s ability to identify high-risk shipments so as to prevent smuggling and ensure cargo safety and security.

Do Not Load Messages

- Timetable

- Might begin in May, 2010, but CBP does not expect to issue many.
- More DNL by August, 2010.
- Full enforcement by October, 2010.

- CBP will not issue “affirmative load” messages to carriers.
- CBP will not send an actual DNL hold message to the ISF Filer, but are only sent to the carriers.
- CBP will send notification to the ISF Filer that the ISF prompted a DNL hold message.
- ISF Filer can then correct the mistake.



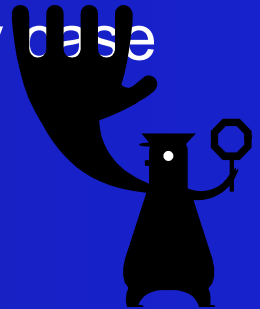
CBP Progress Report



- CBP issues Progress Reports to each ISF filer
- CBP assesses whether ISF filer is making “satisfactory progress toward compliance.”
- In Fall 2010, CBP will use these reports in determining assessment of liquidated damages and issuance of “no load” messages.
- Good progress reports viewed as mitigating factor for ISF violations.

CBP Enforcement of 10+2

- January 26, 2010 – October 2010 – case by case basis
- October 2010 – Majority full enforcement
 - CBP will assess liquidated damages against the bond securing the ISF in the amount of \$5,000 per late ISF, \$5,000 per inaccurate ISF, and \$5,000 for the first inaccurate ISF update, in addition to penalties applicable under other provisions of law
 - CBP will assess “do not load” messages
- CBP will consider an entity’s progress reports during the delayed enforcement period as a mitigating factor in any enforcement action.



Top 10 Distractions

1. Buy Local Rules (a.k.a. Buy America)
2. OFAC/Helms-Burton vs FEMA
3. ITARs/Dual National Problem
4. Anti-dumping Cases in Canada and change in Canada's SIMA methodology
5. Judicial Reviews/Appeals

Top 10 Distractions (cont'd)

6. NAFTA Verifications
7. Advance Data Element Reports
8. Border GST Interest
9. Harmonized Sales Tax in Ontario & British Columbia
10. Canada's Subsequent Proceeds D-Memo

Advance Data Element Reporting (Canada)

- Bill 5-2 “An Act to amend the *Customs Act*
 - Passed Senate: April 23, 2009
 - Passed House of Commons: May 28, 2009
 - Royal Assent: June 11, 2009
- S.6 re Regulations re Advance Data Reporting
 - Would have significant effect on auto industry
- Canada: under veil of secrecy
- 10 + 2 + 3
 - All 3 modes (air, land, marine)
 - Not certain if Canada’s 10 + 2 = U.S. 10 + 2

NAFTA Verifications

- NAFTA Article 506 permits NAFTA verifications
- Increase in enforcement on both sides of Canada-U.S. border
- Improper certificates of origin are low hanging enforcement opportunities

Rules of Origin

- Hierarchy:
 - Wholly Originating
 - Produced from Originating Goods
 - Substantial Transformation
 - Tariff Shift
 - Regional Value Content (RVC)
 - Tariff Shift and Regional Value Content
 - Process performed in the Territory (requirements that last manufacture occur in the territory – see Australia PTAs)

Textile and Apparel Goods

- Domestic implementation of restraint agreements and commitments
- Import Control List
 - items 22 to 67
 - many already removed from quota
- Reduction in Canadian MFN tariffs
 - fabric tariffs reduced from 20 to 14%
 - apparel tariffs reduced from 25 to 18%

Textile and Apparel Goods (cont'd)

- NAFTA
 - “fabric forward” rules of origin
 - “yarn-forward” rules of origin
 - “fibre forward” rules of origin
 - Seeing many cases where NAFTA rules not satisfied and U.S. fibres/yarn/fabric not available
 - Need to reconsider strictness of rules of origin to reflect current availability
 - tariff preference levels
 - apparel cut and sewn from non-NAFTA fabric/yarn
 - fabric woven or knit from non-NAFTA yarn

OFAC/Helms-Burton vs FEMA

- Extra-territoriality of U.S. export and transaction controls moves invisible border into Canada and around Canadian businesses
- U.S.: Negative approach: Do not do business with Cuba
- For example, U.S. extra-territorial sanctions programs affecting trade with Cuba:
 - Cuban Assets Control Regulations (CACRs)
 - Export Administration Regulations (EARs)
 - Helms-Burton

OFAC/Helms-Burton vs FEMA (cont'd)

- Canada's *Foreign Extraterritorial Measures Act* (1984)
 - Cuba FEMA Order (1992, 1996)
 - section 3: must notify AG of any “directive, instruction, intimation of policy or other communication” relating to an “extraterritorial measure of the United States” received from “a person who is in a position to direct or influence the policies of the Canadian corporation in Canada”
 - section 5: prohibition on compliance with “extraterritorial measure of the United States” or related communication
 - meaning of extraterritorial measure of the United States
 - prevent or impede trade or commerce between Canada and Cuba
 - Significant penalties

OFAC/Helms-Burton vs FEMA (cont'd)

- FEMA: Positive pro-business Canadian approach
- Catch-22 conflict for Canadian businesses: Breach U.S. law or Canadian law
- Canadian counsel work to find solutions so comply with U.S. and Canadian law
- Canadian export controls on U.S. origin goods
 - ECL item 5400 and GEP No. 12
 - 50 % rule of thumb in determination of U.S. origin
 - difficulties in the 20 to 50% range

ITARs/Dual National Issue/Canadian Human Rights Laws

- Extra-territoriality of U.S. export and transaction controls moves invisible border into Canada and around U.S. businesses
- U.S.: Negative Approach: Individuals from certain countries must not have access to ITAR-controlled goods and technical data
- Canada: Charter of Rights and Freedoms: Right against discrimination on the basis of nationality
- Canada: Provincial human rights laws

Selected Human Rights Cases in Canada

- Bell Helicopter Textron Canada Ltd. Case (Quebec Human Rights Commission) (January 2008)
 - Complainant: Haitian/Canadian citizen lived in Canada for 30 years
 - Applied for an internship, initially accepted, subsequently told he didn't qualify because nationality
 - Commission held position that the U.S. ITARs "infringe the right to equality without discrimination based on ethnic or national origin".
 - ITARs are inconsistent with Canada's Charter of Rights and Freedoms
 - Out-of-court settlement

Selected Human Rights Cases in Canada (cont'd)

- General Motors Defense (GMD) (Ontario Human Rights Commission) (July 2007)
 - GMD was a division of General Motors of Canada Limited, which manufactured military vehicles for various governments
 - Complainants : Six unionized employees
 - In 2002, GMD sent home 172 workers because their citizenship status created a “security risk” and ITAR technical data transfer compliance problem
 - Some low level employees returned to work, but many not called back

Selected Human Rights Cases in Canada (cont'd)

- November 2006 Interim Decision in GMD Case
 - Pointed out that GMD could have taken measures to “obtain security clearances” (perhaps that means obtain US State Department authorization) for the laid off employees instead of just sending them home
 - Commission believes that ITAR compliance measures taken by General Motors in Canada in 2002 “constitute discrimination in employment on the basis of their citizenship or place of origin contrary to the Ontario Human Rights Code.”
- Out-of-court settlement: monetary remedies and undertaking that the successor to GMD would continue with its practice of making all reasonable efforts to secure such lawful permission as may be obtained to minimize any differential treatment for such

Buy Local Rules

- Hot topic of 2008/2009
- Problems = Two way street
 - Buy America concerns
 - Canadian municipalities boycott US Goods
- Solution = (Single?) Border around North America For Government Procurement: February 16, 2010
Implementation of Canada-U.S. Agreement on Government Procurement
 - US waives Buy America Provisions – re American Recovery and Reinvestment Act
 - Canadian provinces to be scheduled pursuant to WTO Agreement on Government Procurement

EFFORTS AT HARMONY

- Canada-United States Auto Pact --1965
- Canada-United States Free Trade Agreement - 1989
- North American Free Trade Agreement 1993-94
- Cross-Border Crime Forum (mid-1990s)
- Shared Border Process 1995 -- preclearance, pre-approved travellers
- Immigration / customs joint vision
- Canada-U.S. Partnership 2000

Post 9-11

- SMART BORDER DECLARATION
 - 32 Point Action Plan
 - Secure flow of people, goods, infrastructure, information sharing
 - Similar arrangement with between U.S. and Mexico
- SECURITY PROSPERITY PARTNERSHIP
 - North American Competitiveness Council

SO WHAT?

- Border crossing costs \$6.3 billion
- Delays and uncertainty cost additional 4.0 billion
- \$406 million for trucking
- \$1 million per hour in excess manufacturing for auto industry /\$800 per vehicle
- \$1,100 per taxpayer

- Total cost to U.S. & Canadian economy \$13.20 billion