

Lawrence National Centre
FOR POLICY AND MANAGEMENT

Streamlining Canada / U.S. Regulations

How can business help?

Toronto Board of Trade
Ivey ING Centre, Toronto, ON
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IVEY

Richard Ivey School of Business
The University of Western Ontario

Lawrence National Centre

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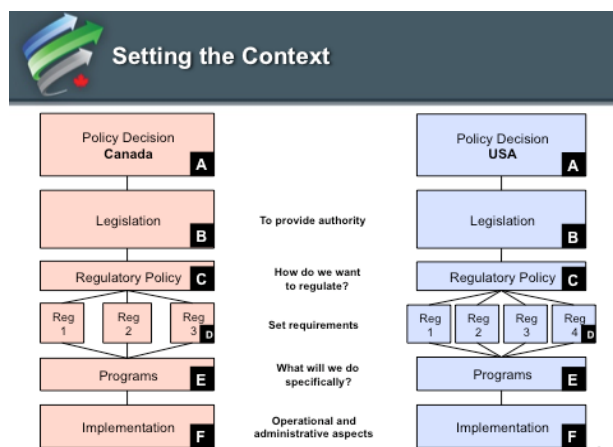
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BACKGROUND

Update on the Regulatory Cooperation Council

Presenter: **BOB HAMILTON**, Senior Associate Secretary of the Treasury Board

In early 2011, Prime Minister Harper and President Obama announced the *Shared Vision for Perimeter Security and Economic Competitiveness*. The *Shared Vision* establishes a new long-term partnership between Canada and the U.S. to accelerate legitimate flows of people and goods, while strengthening security and economic competitiveness. Leaders created the Beyond the Border Working Group (BBWG) and Regulatory Cooperation Council (RCC) to realize the *Shared Vision* goals.



The RCC is made up of senior officials from Canada and the U.S. The goal of the RCC over its two-year mandate is to identify ways to regulate more efficiently and effectively through greater cooperation. The RCC was tasked with developing a Joint Action Plan to achieve greater regulatory alignment between Canada and U.S.

Canada and the U.S. have highly integrated economies and industries, but regulatory systems that have evolved independently. This has led to misaligned standards and duplicative requirements, which can:

- Increase costs for businesses and consumers
- Inhibit cross-border trade and supply chains
- Limit timely access to products

Through better cooperation, differences and duplicative efforts can be reduced to the benefit of citizens and businesses in both countries.

Key principles:

- Maintain sovereign regulatory systems
- Regulatory outcomes for consumer protection, health, safety, security and the environment will not be compromised
- Develop mechanisms to facilitate and secure future alignment
- Transparency and stakeholder engagement

Ongoing engagement with Canadians and stakeholders is essential to the success of the RCC. The RCC invited input from a range of stakeholders, including Canadians, business and industry associations, regulatory departments and agencies, and provinces and territories. A consultation summary report entitled "*What Canadians Told Us: A Report on Regulatory Cooperation between Canada and the United States*" was released in August, 2011.

RCC objectives for developing the Joint Action Plan include:

- A focused and practical approach
- Short-term alignment to realize early and concrete results within a two-year timeline
- Ongoing mechanisms to prevent unnecessary differences in the future and secure future alignment
- Support from leaders to help maintain momentum

Working Groups will be established to implement Joint Action Plan initiatives:

- Led by senior representatives from regulatory departments on both sides of border
- Work plans and timelines – tangible outcomes – with regular reports on progress
- Results will be lower costs for businesses, better prices and choices for consumers, and facilitated Canada-U.S. trade
- Input from stakeholders, the public and regulators in Canada and the U.S. and continued engagement as the Joint Action Plan is implemented

PRESENTATION OVERVIEWS

Panel on regulatory coordination in Agriculture and Food

Presenter: **NANCY CROITORU**, President and CEO, Food & Consumer Products of Canada

Food & Consumer Products of Canada (FCPC) is Canada's largest industry association representing the manufacturers of food, beverage and consumer goods. FCPC's member companies are diverse in size, location and focus, and are responsible for 80% of the products found on grocery store shelves in Canada.

Greater regulatory cooperation between Canada and the U.S. will support economic development across Canada's manufacturing sector and access to new markets for agricultural produce, as well as new ('healthier for you') options for Canadians in their local grocery store. Canada has the most arable land of any country, access to clean water, reliable energy sources, educated workforce, and stable political climate. Changes are required to Canada's regulatory policies in food and consumer goods in order to realize the potential to be a bigger, local and global player in food manufacturing and processing.

- The food and consumer product, manufacturing sector leads all manufacturing sectors in Canada. In 2010, it earned \$19 Billion in GDP and employed nearly 300,000 Canadians.
- The sector was a key driver of Canada's economic recovery during the recent recession, with average growth of 3.6% per year from 2005 to 2010, and 1.7% increase in profit in 2010.
- The George Morris Centre determined from 12 case studies featuring specific regulatory challenges faced by FCPC member companies that over \$440 million dollars in direct and indirect benefits were lost in 2009 because of approval delays. The delays meant foregone employment for roughly 1,850 people.

Many products sold in Canada are made on both sides of the Canada-U.S. border. This production style requires common practices to maximize efficiencies and minimize costs. FCPC and its member companies do not seek fewer regulations or absolute harmonization, but a strategic alignment of significant regulatory differences and inequality between Canada and the U.S.

FCPC recommendations include:

- **Better alignment of the scientific regulatory system:** The ability to commercialize innovative food products is more challenging in Canada than in most modern countries. Regulatory delays for new approvals range from 3 to 10 years. In 2010 Unilever Canada's Becel ProActiv margarine, proven to improve heart health, was approved after 8 years in the queue at Health Canada. This same product was approved for sale in the U.S. and EU in the late 1990s. Industry must be encouraged to introduce healthier products for niche markets. Lengthy approval processes run the risk of limiting options for Canadian consumers and of reducing manufacturing capacity in Canada.
- **Mutually recognized science:** In certain instances, Canada's requirement for different regulations signals both distrust of other western countries' science, and being buried in red tape. Cheese popcorn made in the U.S. is allowed 53% cheese flavouring while in Canada it must be less than 49%. The 4% difference means manufacturers must have separate product formulations and manufacturing runs in order to sell in both Canada and the U.S. Increased access to export markets represent the industry's future.
- **Improve Border Efficiencies:** The requirements for use of FAST Lanes are not harmonized between Canada and the U.S. Many shipped food products are being inspected twice; once by domestic food inspection agencies and again at the border. Harmonizing requirements and eliminating duplication would reduce unpredictability, delays and barriers to growth for industry.

Presenter: **LORNE HEPWORTH**, Director, CropLife Canada

CropLife Canada is the trade association representing the manufacturers, developers and distributors of plant science innovations for use in agriculture, urban and public health settings. Member companies include Bayer, BASF, Dow, Dupont, Monsanto and Syngenta. CropLife aims to enable the plant science industry to bring the benefits of its technologies to farmers and the public. A key to this success is the international trade of these products. Canada and the U.S. exchange over \$34 Billion in agricultural products every year. They share a commitment to science-based regulations and rules based trade, improved agricultural border flows and regulatory approaches, and strengthened approach to food safety. The opportunity to harmonize regulations, eliminate trade irritants and improve the flow of trade between the two countries will improve economic prosperity on both sides of the border.

Plant Biotechnology – regulatory asynchronicity and low level presence:

- Plant biotechnology was introduced to the marketplace in the late 1990s
- Between 1996 and 2007, the farm income benefit from plant biotechnology was \$52 billion globally
- GMO crops are now grown in 29 countries by over 15 million farmers; 90% of whom are from developing countries
- Canada is number 5 in the world in acres planted to GMOs; over 90% of canola in Canada is genetically modified
- The number of biotechnology traits in the marketplace is expected to rise from 33 to over 125 by 2017

Biotech crops are regulated for food, feed and environmental safety. As the biotech pipeline expands, asynchronicity between producing and importing countries, in terms of approvals of new biotech crops has developed, leading to costly trade disruptions. When attempts are made to segregate commodity supply chains before shipment, low-level presence (LLP) of biotech traits approved in the exporting country but not in the importing country, is likely. Testing equipment is sensitive and can detect minute traces of GMO seeds in shipments. Countries requiring zero tolerance by the supply chain will lead to trade disruption as the pipeline expands. CropLife Canada recommends:

- Canada and the U.S. develop a common LLP policy recognizing that minute traces of genetically modified grains, with full regulatory approval in at least one country, should be acceptable and not interfere with international trade.
- Synchronization of assessment and achievement of regulatory approvals within 24 months of submission to reduce problems associated with LLP events authorized in one country but not in the country of import. To address asynchronous approvals an abbreviated risk assessment could be adopted by the importing country, consistent with Codex risk assessment guidelines, to declare the unauthorized event “safe” while awaiting regulatory approval.
- Timely sharing of information and collaboration among regulators to facilitate risk management considerations.

Crop Protection Products (Pesticides): Pesticide regulatory processes are highly scientific, complex and resource intensive and can be duplicative. Greater efficiencies can be achieved by co-operating in international streamlining initiatives that would provide advantages to Canadian growers without reducing protection to Canadians’ health or environment. Health Canada’s Pest Management Regulatory Agency (PMRA) began in the 1990s and has been a key participant in U.S., NAFTA and OECD Working Groups on Pesticides. Progress has been made on harmonization, the use of joint reviews, and closing the technology gap between farmers. CropLife Canada recommends the following policy initiatives in cooperation with the U.S. to increase harmonization:

- “Older” pesticides require re-evaluation every few years in order to ensure their ongoing safety. Collaboration between countries to maximize review efficiency and minimize duplication would resolve broader Canada-U.S. issues related to ingredients such as harmonized Maximum Residue Limits (MRLs).
- Both Canada and the U.S. should continue to work with other governments and organizations to remedy MRL harmonization issues and ensure an ongoing process to facilitate synchronous MRLs.
- When data reviews from the U.S. are provided to support registration in Canada, regulators should not be systematically reviewing raw data.
- Health Canada’s PMRA should make greater use of notifications to eliminate unnecessary submissions.
- The process for changing formulations should be streamlined to be more like the U.S. system.

Panel on Regulatory Coordination in Transportation

Presenter: **RON LENNOX**, Vice President, Canadian Trucking Alliance

The Canadian Trucking Alliance (CTA) is a federation of the provincial trucking associations, with headquarters in Ottawa and seven regional offices across the country. The CTA is predominantly Canadian owned, has over 4 500 members and employs over 150 000 people.

Trucking and Canada-U.S. Trade:

- Roughly 60% of Canada's trade with the U.S. moves by truck
- Canadian carriers dominate the industry and represent a significant source of jobs
- Carriers provide flexible, secure access to the U.S. market for Canadian manufacturers

The Complex Regulatory Landscape:

- Lack of regulatory consistency impacts industry productivity and costs of services provided
- Multiple jurisdictions have a role to play at the federal, provincial/state and municipal levels
- Beyond vehicle and safety standards, regulations include environment, taxation, customs and security issues
- Industry needs to find strategies to cope with an outmoded regulatory environment
- Some common regulatory standards exist, e.g. vehicle emissions
- Mutual recognition is accorded certain, less complex regulatory concerns, e.g. driver medical standards
- For the most part, two sets of rules are followed, e.g. driver hours of service

Previous Efforts include:

- NAFTA Land Transportation Standards Subcommittee: Standardized requirements for driver medical records and age were passed. Tougher issues (weights and dimensions) remain unresolved. The committee remains dormant
- Canada-U.S. Smart Border Action Plan: Post 9/11 urgency lead to valued programs such as Customs-Trade Partnership Against Terrorism (C-TPAT), Free and Secure Trade
- Security and Prosperity Partnership: An overly ambitious program, complicated by its trilateral focus

CTA Advice for the Regulatory Cooperation Council:

- Avoid a laundry list approach to costly border irritants
- Engage key government departments and the private sector
- Maintain points of Canadian advantage and harmonize only where opportune
- Focus on realistic targets. There is no such thing as "low hanging fruit"
- Build on the work of past efforts

CTA Priorities:

- Remove impediments that restrict Canada-U.S. in-transit freight movements
- Eliminate restrictive interpretations of rules surrounding empty trailer movements
- Work towards the development of common Canada and U.S. standards for certain GHG-reducing devices

How can CTA members help?

- Cultivate allies in business and government.
- Document and quantify impacts.
- Sensitize the media to our concerns.
- Don't make our problems the government's problems.
- Continue to participate and collaborate with government.

Presenter: **DAN ROGERS**, Director, Government Relations, Public and Corporate Affairs, Railway Association of Canada

The Railway Association of Canada (RAC) has roughly 50 railway members and represents virtually all freight, tourist, commuter and intercity passenger railways operating in Canada. RAC membership also includes CN and CP railway operations in the U.S and U.S. Class I railways operating in Canada. RAC members play a key role in promoting the safety, security, viability and growth of the railway industry within Canada. The RAC conducts policy development, research and advocacy to promote the efficiency of rail and informs all levels of government and transportation-related businesses about rail's advantages.

Canada and the U.S. enjoy the largest bi-lateral trading relationship in the world. In 2010, the value of total merchandise trade between Canada and the U.S. was \$502.3 billion, an increase of \$45.4 billion (9.9%) over 2009. Rail is a significant facilitator of Canada-U.S. merchandise trade, moving \$83.1 B of goods (16.5% of total value). In 2008, rail moved 59% of the total volume of road/rail freight destined to the U.S., up from 45% in 1999. The rail industry, with a network of over 300 000 kilometers of operated track, contributes more than \$60 billion annually to the Canadian and U.S. economies and directly employs more than 185 000 people.

North American railways are significant users of the border to facilitate international and North American trade and passenger rail services. Railways provide a seamless system linking the regions to national, NAFTA and global markets through major centres, borders and port-gateways. The industry is motivated to participate in government mandated cross-border safety procedures in order to minimize border congestion and make transborder movements seamless and cost effective. Canadian railways were responsive to the Smart Border Accord, introduced after September 11, 2001, to address U.S. security requirements. The Accord stands as a best-practice guideline today, yet elements to reduce costs of compliance remain slow to be implemented and certain measures restrain overall border fluidity.

Recommendations to Improve Border Facilitation:

- **Move Inspection Away from the Border and Port:** Satisfying all clearance requirements at the border can delay shipments because of physical constraints that lead to congestion and reduced fluidity. Canada and the U.S. should implement more programs that rely on preclearance as a cost effective way to ensure both a secure and economically efficient border for shipments crossing by land. Pilots should be designed to determine how best to apply preclearance on a national scale.
- **Reduce Duplication in Screening:** Information about international traffic transiting Canada to the U.S. should be shared between the customs agencies to promote risk management and supply chain efficiencies. Similarities of the PIP and C-TPAT lead to administrative duplication where harmonization of the programs could yield efficiencies.
- **Rely on Risk Management:** Standardization relies on rules-based compliance rather than an approach that is expensive and tends to erode trust based on demonstrated competence. Programs should be aimed at risk-based protection to create greater certainty and predictability at the border while making the border more secure, economically efficient, and less costly to both governments and users.
- **Local Prejudices and Interpretations:** Border officials have great authority in assessing risk. They can make determinations with little recourse for shipments subjected to burdensome secondary inspections. What constitutes a risk is a matter of judgment based on criteria not widely shared with the public. Export examinations for rail freight are infrequent but problematic when they occur, delaying shipment and adding to border congestion. Trust is maintained from sharing inter-agency and cross-border intelligence. Confidence in judgments arises from the implementation of appropriate personnel, technical, and operational safeguards in an integrated program, on both sides of the border, to consistently and correctly implement safeguards as designed.

- **Residue Empty Reporting rule:** U.S. CBP issued a ruling that railcars entering the U.S. from Canada with residual product greater than 7% must be considered as loads. They must be reported to CBP prior to border arrival and meet the requirements of a loaded car. These requirements are not consistent with how cross border rail trade involving empties are traditionally pooled and handled on integrated rail networks in North America. Rail shippers contend that they have no means to accurately measure residue weight. It is recommended that CBP not proceed with any manifest requirements for empty rail cars.
- **Wood Packaging Material Exemption:** The USDA and CFIA are moving towards the removal of the wood packing material (WPM) exemption for the shipment of goods originated in Canada to the U.S. More than 30% of rail cars contain some form of WPM. The removal of the WPM will increase the cost of moving goods between Canada and the U.S. without impacting the natural movement of North American forest pests. The RAC recommends the current WPM exemption should be maintained.
- **Border Facilitation and Inspection Fees:** In 2010 the USDA authorized the collection of user fees to cover the cost of animal quarantine and inspection as advanced by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). The ruling increases the costs of moving goods as all commercial conveyances are now subject to inspection and user fees. Canadian fruits and vegetables were formerly exempt as the risk from these imports was assessed to be low. The USDA claims action is being taken as a cost recovery measure for an increasing number of interceptions at the U.S.-Canada border of prohibited material that originated outside of Canada that presents a high risk of introducing plant pests or animal diseases. The ruling does not follow the targeted risk management model driving customs reforms in North America. If government no longer has to follow appropriate procedures, it will be difficult to oppose the imposition of new fees intended to generate government revenue. The federal governments of Canada and the U.S. should resist the introduction of new border facilitation fees and establish a schedule to eliminate existing fees.
- **Passenger Inspection Fees:** The growing interest in passenger rail services is presenting opportunities for expanded rail services between Canada and the U.S. Current CBSA policy dictates that additional inspection must be done on a cost recovery basis. The imposition of fees makes additional passenger rail services uneconomical and at a competitive disadvantage to other passenger modes such as air, bus and automobile. The uncertainty of the CBSA cost recovery policy is a barrier to expanding rail services. The RAC recommends inspection for new rail services be funded by CBSA.
- **Improving Passenger Rail Border Facilitation:** Develop a consistent approach to processing rail passengers at all border crossings. This would increase predictability in terms of the time required to process passenger trains at the border, improved security and arrival times. Changes to customs procedures for passengers should be communicated to Amtrak, the U.S. intercity passenger rail carrier and passengers in a timely fashion to ensure they are aware of and able to make the appropriate changes to customs procedures.
- **Regulatory Harmonization between Canada and the U.S.:** Certain regulatory concerns for cross border harmonization pertain to rules for dangerous goods, locomotive and equipment standards and component tracking. The resolution of concerns for trains crossing the border can be achieved through joint working groups involving industry and Governments on both sides of the border. Consider establishing a border zone of thirty miles on both sides of the Canada, U.S. border where both sets of rules and standards are accepted on each other's soil.

PARTICIPANT DISCUSSION

Question #1: What sorts of considerations define the focus of the RCC and which issues pose the greatest challenges? **Richard Joy**, Toronto Board of Trade

The perception in Canada is of a weaker American regulatory system, not subject to the same standards. In actuality, many U.S. regulations are more prescriptive than those in Canada, making it tough for regulators to work together. For example, the U.S. Environmental Protection Agency (EPA) faces challenges in trying to set environmental regulations while in the spotlight, amidst legal and process pressures from within the country. Regulators want to keep things safe and avoid public scrutiny. They aren't necessarily interested in the broader perspective of whether Canada wants to be part of negotiations or whether they can rely on science done within a certain jurisdiction. Approval processes can also pose impediments to trade for Canada. U.S. companies wanting to produce something for the Canadian market may not want to submit to the approval process, believing it not worth their while. If there is a way to better align these processes, companies would have an increased chance of getting their products through.

We also have questions surrounding food inspection. When a product introduced in Canada survives inspection and the U.S. believes our system is credible with a high degree of safety, the product requires re-inspection by the U.S. Inspections involve border issues. We believe food inspection should be conducted away from the border to reduce congestion, but the question remains whether secondary inspection is necessary. The North American auto industry has a high degree of economic cooperation. Separate prototype and testing procedures are not required and standards can be aligned, as in the case of emissions. Companies aren't required to produce one car to meet Canadian standards and another to meet American standards. North America produces cars that meet a common standard. **Bob Hamilton**, Treasury Board of Canada Secretariat

Question #2: There is a third signatory to the NAFTA agreement. How will Mexico's involvement impact the kinds of regulatory changes you're intending to make? **Julia Taylor**,

The U.S. has initiated a similar process of Regulatory Cooperation with Mexico and Europe. More progress is being made in the Canada-U.S. context, in part because of our common regulatory objectives. When we work trilaterally, Canada-U.S.-Mexico, the process can become bogged down and progress can be much slower. We want to work bilaterally with Mexico. We would first like to make progress with the U.S. on areas of importance, and then build the North American framework rather than start with a larger trilateral framework that risks never getting out of the starting gate because of differences between our countries. We respect all of our NAFTA obligations. Our hope is that anything new in the Canada-U.S. context will translate into a North American application. If we can work quickly with the Americans and demonstrate to Mexico and other countries that we can achieve successes, it could impact other efforts. **Bob Hamilton**, Treasury Board of Canada Secretariat

Question #3: Does the RCC mandate extend to more global regulations that have a particular impact on Canada such as the Foreign Account Tax Compliance Act (FATCA)? Are you looking for a unique solution for Canada for broader regulatory issues? **Unattributed**,

The FATCA is a good example of where we could argue for special treatment based on our special relationship. The RCC has examined tax and financial sector regulations. The question is whether the issue is best suited to the RCC or the other forums and processes already in place to address these issues. This occurs across sectors as well where Canada or the U.S. takes action to fix a problem with another jurisdiction without a proviso that we don't share that problem. More often than not it happens to us rather than by us. If we can talk about an issue before being impacted by it, there is a better chance of having the special situation or circumstance recognized rather than trying to carve out room to justify our position after the fact. We can't count on other countries to recognize that for us. **Bob Hamilton**, Treasury Board of Canada Secretariat

Question #4: It would be good if at the end of two years the RCC could report on savings to government from streamlining regulations and market efficiencies for industry. What can we do to help ensure the RCC process continues past its two-year mandate? **David Sparling**, Richard Ivey School of Business

If after two years we find that the RCC is not making progress, we will sunset the program. The expectation however, is that it will continue. Our work can be thought of in three phases: to develop the Joint Action Plan and identify initiatives for priority sectors; to implement Plan initiatives; and to evaluate our work. In phase one, we found it difficult to retrieve good information on the economic impacts of various regulatory issues. If industry can determine cost estimates in dollar amounts or as a percentage of profit margins, it will help us to understand specific impacts, gain a richer sense of the issues and establish priorities moving forward. We have to sell this to Canadians and Americans. Certain people will adopt the position that there is nothing to be gained by harmonizing with the U.S. It is important to hear from voices that have examined the science. Government needs something to work with in terms of indicators to support ideas about regulatory reform. **Bob Hamilton**, Treasury Board of Canada Secretariat

The cost of plant closures and job losses was monetized in the Morris Centre report and we will continue to gather information. The larger impact is the lost opportunity going forward, in direct and indirect dollar amounts, throughout the supply chain. If the Action Plan is effective, it will have the potential to reduce costs in the system. Saving at the border could translate to more resources for the Canadian Food and Inspection Agency (CFIA). Instead of focusing on products by publically traded multinationals that don't generally risk not conforming to regulatory standards, we need resources to address the many grey market and illegal unlabeled products coming into Canada from China. They don't meet our regulatory standards and aren't safe, yet we don't have inspectors to pull these products from the shelves. **Nancy Croitoru**, Food and Consumer Products of Canada

From an agricultural perspective, few crops grown 100 years ago - wheat, corn, soybean - are grown today in Canada. There is an explosion of crops such as canola because of their healthy properties. Canola grown in Canada is 90% GMO. Farmers need tools to kill bugs, weeds and diseases that can attack these crops. Our regulatory system doesn't always recognize these crops, of increasing importance to Canada, but considered minor in the world market. In what is considered a small market, only 4% of the global economy, it costs companies \$250 million to get a product approved. In recognizing the science conducted in other jurisdictions, we can close the technology gap and have products reach the farmers and consumers sooner. **Lorne Hepworth**, CropLife Canada

Question #5: Is there consideration of a North American food label? Currently, when an American product is labeled, it is treated somewhat as an American citizen. When it's exported, it loses its citizenship and requires re-inspection upon re-entry to the U.S. This leads to complex issues around recalls, liability and trade and in the retention of multinationals and Canadian companies that conduct transborder business. **Phil Dick**, Ontario Ministry of Agriculture, Food and Rural Affairs

The issue of labeling has been raised in a variety of areas. It's not a case of producing a product in one jurisdiction and moving it across the border to another one. We have products moving back and forth as they're being produced, all along the production chain. This becomes significant over time. We have to determine within the Action Plan whether labeling represents a vehicle to secure ongoing alignment, with benefits to other sectors, or whether it can be addressed at a later time. While the RCC is limited in scope, it feeds into a broader exercise. Beyond cooperation, Canada and the U.S. are trying to find a more intelligent approach to risk assessment. As both countries share similar objectives and use evidence-based science for decision-making in terms of health, safety and the environment, this exercise aims not only to better align but to improve our systems over the long term. If however this exercise is perceived as in some way weakening the strength or decreasing the number of regulations, or trying to find the lowest common denominator, it won't be successful. **Bob Hamilton**, Treasury Board of Canada Secretariat

Question #6: The RCC received 170 submissions and has two years in which to funnel a set of actions. What method has been used to screen issues in order to decide a focus? **David Sparling**, Richard Ivey School of Business

The RCC is not a substitute for mechanisms that exist to address certain issues, nor is it meant to resolve all outstanding regulatory issues. This is about the art of the possible. We developed a set of measures to guide the process: 1. We first tried to discern the importance and scale of the issues before us. We didn't always have quantifiable evidence on which to base our decision; 2. The second question was whether the issue could feasibly be addressed within a two-year mandate. As there were more than enough issues, we agreed with our American colleagues to pursue only issues of mutual concern; 3. The third determination was whether the issue clearly lies in the federal domain. We felt it was important not to become embroiled in federal-state exercises, not that there aren't important actions to be taken at the provincial or state level. The provinces should be aware of how actions taken at the federal level may affect relations at the provincial level, or may be used to achieve cooperation among the provinces or states; 4. Fourthly, we addressed issues that potentially have a bigger impact than the measure itself, including cross-sectoral impact. We hope to develop instruments or mechanisms that will help to solve the underlying problem and prevent it from recurring in the future; 5. Finally, we've had discussions with regulators on both sides of the border to ensure the feasibility of this exercise. There is no sense in forging an Action Plan that can't be delivered upon with limited resources. **Bob Hamilton**, Treasury Board of Canada Secretariat

Question #7: You mentioned using working groups to help initiate actions from the Action Plan. How will these be composed? **Unattributed**,

Once the Action Plan is launched and the problems are outlined, working groups led by senior officials from the primary regulatory departments in both countries and representatives from other relevant agencies or groups will be established to develop workplans, timelines and achieve deliverables. The formation of the working groups will vary one to another based on the sector. In some areas the solutions proposed may fit well with mechanisms that already exist. In others new instruments and mechanisms may be invented to address certain issues. The RCC will oversee the process to ensure regulators fully understand what is expected of them and to help shape regulations. **Bob Hamilton**, Treasury Board of Canada Secretariat

Question #8: We tend to focus on our own perspectives. Are you getting what you need from stakeholders from the point of view of reshaping the regulatory framework from a macro standpoint? **Lorne Hepworth**, CropLife Canada

The logic of the Joint Action Plan is to take a systemic look at proposed initiatives selected to provide not only early successes but lasting regulatory cooperation mechanisms to ensure durable solutions. We don't have all the input we need, nor would I expect to by now. We will require input from stakeholders and the public throughout the implementation phase in helping to write regulations and policies, and develop macro level perspectives. Stakeholders will be important going forward, in providing ideas for future initiatives, keeping the momentum alive, and ensuring we don't fall back into proposing a minimalist fix for a given problem or situation. **Bob Hamilton**, Treasury Board of Canada Secretariat

The RCC aims to select some important targets, make progress towards those targets, and use the progress as an incentive for continuing the program. Industry associations have been invited to identify key issues. Going forward, good data will be required from industry, business, academia and NGOs on the expected impacts of the regulatory changes. It is important as well, to be aware of the difference between 'regulatory impediments' and 'regulatory process impediments'. In many cases the regulations may be good but the process is ineffective due to administrative procedures underlying the regulation, such as where inspections are conducted, or lack of resources, which can lead to five-year delays for the approval of a good product. If we don't contribute to this process and make sure this works, we will have missed a huge opportunity. **David Sparling**, Richard Ivey School of Business

RECENT EVENTS

UPDATE ON THE JOINT ACTION PLAN FOR THE CANADA-U.S. REGULATORY COOPERATION COUNCIL

On December 7, 2011, the Prime Minister and President Obama announced the Regulatory Cooperation Council Joint Action Plan. The Plan sets out 29 initiatives where Canada and the U.S. will seek greater alignment in their regulatory approaches over the next two years, with significant advancements in 4 key sectors: Agriculture & Food; Transportation; Health and Consumer Products; Environment; and two Cross-Sectoral Issues.

Building from the RCC Joint Action Plan, the initiatives are intended to move beyond previous approaches to cooperation, and resolve existing issues while setting a precedent for future solutions. Each initiative represents a vehicle to create a new form of advanced cooperation that will expand into other areas.

Key mechanisms for regulatory cooperation:

- Reliance on each others' regulatory systems: Reduce and eliminate duplicative requirements by recognizing success of each others' work
- Regulatory Standard Setting: Partner on regulatory standards development, conformance (e.g. testing), and implementation / enforcement tools

Key areas of regulatory cooperation:

- Product Approval: Collaborate on aligning submissions, analysis, and approval processes
- Perimeter Challenges: Joint focus of efforts on challenges and threats from offshore and avoid requirements at the Canada-U.S. border
- Compliance and Enforcement: Support each other efforts in ensuring regulatory compliance and enforcement

The RCC commitment to stakeholder involvement is critical to:

- Sharing ideas on work plan details and practical implementation realities
- Providing ongoing feedback to support successful outcomes
- Playing a role in ensuring work plans reflect industry reality and expectations

Recent activity from two levels of involvement:

- RCC Session – January 30, 2012 at the U.S. Chamber of Commerce in Washington: Input and broad discussion on regulatory cooperation between Canada and the U.S. (cross-sectoral considerations) and the aggregate work plan. The next formal RCC stakeholder session will take place in Ottawa later in 2012. Feedback is welcomed throughout the RCC mandate.
- Technical Review and Stakeholder Advisory Sessions – January 31, 2012 in Washington: Over 240 Canadian and American stakeholders registered to participate in a full day of stakeholder engagement. Working Groups will assist in implementing all RCC initial Joint Action Plan items and will develop their own ongoing process with stakeholders on individual workplans/groups. Participants were divided into individual technical review and advisory sessions intended to seek stakeholder ideas on:
 - The resolution of issues in the Joint Action Plan
 - Regulatory cooperation mechanisms to secure ongoing alignment into the future
 - Sector-specific technical discussions and input on the work plans for the RCC Joint Action Plan initiatives

Key Questions for Consideration:

- What are the best ways to achieve regulatory cooperation between Canada and the U.S.?
- How can we best maintain a focus on regulatory cooperation between Canada and the U.S.?
- How can we ensure stakeholders remain informed and engaged in the RCC process?
- What are the key barriers to regulatory cooperation and how should these be addressed?

AGENDA

Wednesday, November 9, 2011

8:00-8:30 AM **REGISTRATION AND BREAKFAST**

8:30-9:05 AM **WELCOME AND OPENING REMARKS**

The Importance of Business and Government Working Together
Carol Stephenson, Dean, Richard Ivey School of Business

Update on the Regulatory Coordination Council
Bob Hamilton, Senior Associate Secretary of the Treasury Board of Canada Secretariat

9:05 – 9:50 AM **PANEL AND DISCUSSION ON REGULATORY COORDINATION IN
AGRICULTURE AND FOOD**

Chair: David Sparling, Professor and Chair of Agri-Food Innovation and Regulation, Richard Ivey School of Business

Nancy Croitoru, President and CEO, Food & Consumer Products of Canada

Lorne Hepworth, CEO, CropLife Canada

9:50-10:05 AM **BREAK**

10:05-10:50 AM **PANEL AND DISCUSSION ON REGULATORY COORDINATION IN
TRANSPORTATION**

Chair: Dianne Cunningham, Director, Lawrence National Centre for Policy and Management, Richard Ivey School of Business

Ron Lennox, Vice President, Canadian Trucking Alliance

Dan Rogers, Director, Government Relations, Railway Association of Canada

10:50-11:15 AM **DISCUSSION ON REGULATORY COORDINATION AND SUMMARY**

PRESENTERS



NANCY CROITORU, PRESIDENT AND CEO, FOOD & CONSUMER PRODUCTS OF CANADA

Nancy Croitoru is President & CEO of Food & Consumer Products of Canada (FCPC), Canada's largest national association representing food, beverage and consumer packaged good companies. She oversees the Association's operations and acts as an industry spokesperson, liaising with trading partners and senior government officials on issues of concern to the membership. Prior to joining FCPC, Ms. Croitoru was President of GCI Group Canada, a full service public relations and public affairs agency with offices in Toronto, Montreal and Vancouver. She has counseled clients from diverse industries and specialized in assisting corporations with issues management, strategic planning and crisis communications. Ms. Croitoru has been a regular speaker on Corporate Reputation, Branding and Issues and Crisis Management for the Conference Board of Canada, Federated Press and a variety of other organizations. She holds an Honours Bachelor of Science degree from McGill University, a degree in dietetics and is fully bilingual.



DIANNE CUNNINGHAM, DIRECTOR, LAWRENCE NATIONAL CENTRE FOR POLICY AND MANAGEMENT, RICHARD IVEY SCHOOL OF BUSINESS

Dianne has more than 30 years of experience in education, business and government affairs. She is the former Ontario Minister of Training, Colleges and Universities, Minister of Intergovernmental Affairs, and Minister with Responsibility for Women's Issues. She chaired the Council of Ministers of Education, Canada, and was the Member of Provincial Parliament for the riding of London North Centre (1988-2003). As the Director of the Lawrence Centre, Cunningham's extensive knowledge of both government and education strengthens Ivey's continuing leadership position as one of the world's top business schools, and builds upon its continuing efforts to further public policy research. She is a member of the National Roundtable on the Environment and the Economy, a member of the Board of Governors of the Canada School of Public Service and Chair of the Ontario Neuro-Trauma Foundation. With a focus on transportation, green energy, and water policy, the Lawrence Centre continues to bridge business strategy with government policy.



BOB HAMILTON, SENIOR ASSOCIATE SECRETARY, TREASURY BOARD OF CANADA SECRETARIAT

Bob Hamilton was appointed Senior Associate Secretary of the Treasury Board in March 2011 and named by the Prime Minister as the lead Canadian on the Canada-U.S. Regulatory Cooperation Council (RCC). The RCC was established by the Prime Minister and President Obama in February 2011 to find ways to better align regulatory systems in the two countries. Bob joined the Tax Policy Branch at the Department of Finance in 1985. He was a member of the team that developed and implemented the Good and Services Tax (GST). Following the introduction of the GST in January 1991, he was appointed Assistant Director of the Business Income Tax Division and Director in 1992. Bob was appointed General Director of the Financial Sector Policy Branch in 1995 and the Assistant Deputy Minister of that Branch in 1996. During that time he oversaw the development of policies and legislation to establish the Canada Pension Plan Investment Board and to enhance Canada's anti-money laundering and terrorist financing regime. Bob was appointed Associate Secretary of the Treasury Board in August 2008, where he helped advance the public service management agenda and the government's agenda to make government more efficient through initiatives such as the Web of Rules Action Plan and Strategic Reviews of departments. In January 2009, Bob was appointed Associate Deputy Minister of Environment Canada where he worked on Canada's environmental policies, including aligning Canadian and U.S. greenhouse gas regulations for the automobile industry. Bob received his Honours B.A. and Master's degree in Economics from the University of Western Ontario.



LORNE HEPWORTH, PRESIDENT, CROPLIFE CANADA

Lorne Hepworth has been President of CropLife Canada since 1997, having previously served as Vice President. CropLife Canada is the trade association representing developers, manufacturers and distributors of plant science innovations – pest control products and plant biotechnology – for use in agriculture, urban and public health settings. As President, he is the chief spokesperson for the industry association and responsible for its overall strategic direction and management. He currently sits on the Board of Genome Canada and has served on the federal government's Pest Management Advisory Committee and National Biotechnology Advisory Committee. Mr. Hepworth was also the former Minister of Agriculture in the Government of Saskatchewan.



RON LENNOX, CANADIAN TRUCKING ALLIANCE

Ron Lennox is the Vice President of the Canadian Trucking Alliance. Ron joined the Canadian Trucking Alliance in July, 2000. Over the past decade Ron has dealt primarily with Canada-U.S. cross-border trade and security issues, covering the development of the Western Hemisphere Travel Initiative, the Automated Commercial Environment, the Customs-Trade Partnership Against Terrorism and implementation of the U.S. Trade Act and Bio-terrorism Act. His current responsibilities encompass the transportation of dangerous goods, labour and human resources, and cargo security. Prior to joining the Canadian Trucking Alliance, Mr. Lennox was a policy advisor in Transport Canada's Motor Carrier Policy Branch, with responsibility for international truck and bus issues. From 1997 until 2000 Mr. Lennox was the Canadian lead on NAFTA's Transportation Consultative Group on Cross-Boarder Operations and Facilitation. Mr. Lennox holds a Masters degree in Public Administration from Carleton University in Ottawa.



DAN ROGERS, DIRECTOR, GOVERNMENT RELATIONS, RAILWAY ASSOCIATION OF CANADA

Dan Rogers is Director, Government Relations of the Railway Association of Canada. The RAC is an industry trade association that represents the interests of Canada's 50 railway companies, covering all freight and passenger operations. Recently, the RAC started to invite supplier partners to its membership, of which there are now 54 members. Dan began working with RAC in the spring of 2010. Prior to joining the RAC, Dan ran his own public affairs consulting company focusing on transportation and communications issues. Clients included Canadian National Railway, Telus and FETCO among others. Dan spent a number of years inside the Government of Canada working in various positions for two federal cabinet ministers. In that capacity Dan served respectively as Chief of Staff to both the Minister of Transport and the Leader of the Government in the House of Commons. Dan grew up in Toronto and Ottawa and is a graduate of Carleton University.



DAVID SPARLING, PROFESSOR AND CHAIR OF AGRI-FOOD INNOVATION AND REGULATION, RICHARD IVEY SCHOOL OF BUSINESS

Before joining Ivey, in 2009, David Sparling was Associate Dean, Research and Graduate Studies in the College of Management and Economics at the University of Guelph. Previously, he was seconded for two years as Executive Director of the Institute for Agri-Food Policy Innovation. He is also a Senior Associate at the University of Melbourne and has taught at the Australian Graduate School of Management and McMaster University. David has been president of a farming company, a biotechnology start-up and an agri-business insurance company. David has consulted for a wide variety of government and industry organizations and is frequently featured in television, radio and the press.

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