Jeffrey Ayres and Laura Macdonald, eds., 
North America in Question: Regional Integration in an Era of Political Economic Turbulence

Chapter 4
Stephen Clarkson
“Continental Governance, Post Crisis – Where is North America Going?”
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Goodbye North America: It Was Not so Nice to Have Known You

For a considerable period after 1994, when Mexico had joined Canada and the United States to form the North America Free Trade Agreement (NAFTA), observers opined that this newly integrating economic space signified that North America formally entered the club of world regions. The eminent expert on hemispheric affairs Robert Pastor affirmed in a similar spirit that for “the first time, ‘North America’ is more than just a geographical expression,” NAFTA being "merely the first draft of an economic constitution for North America.” While Pastor’s vision of a world region whose subsequent "drafts" would approach the sophisticated, multilevel, and transnational governance of the European Union, this chapter maintains that the experiment to form an integrated entity that is more than the sum of its Mexican, Canadian, and American parts had already failed – along with any prospect of what might pass as continental governance – well before the crisis of 2007-09 had struck.

This text will proceed analytically but chronologically by first explaining how the political economy of the relations between NAFTA’s three member states had not evolved in their first decade towards world region status. In its closing section the essay will explain how responses to the crisis of 2007-09 in the three states have further dimmed prospects of developing a transnational continental governance that could deal with North America’s most pressing challenges.

I The Political Economy of North America under NAFTA and after 9/11
The failure of continental governance to take root across the borders of North America can best be understood as due principally to four realities which are somewhat offset by a fifth:
1. North America was constituted with a disparate set of deliberately weak continental institutions designed mainly to settle member governments’ and their investors’ legal disputes arising out of NAFTA’s provisions.
2. Some economic sectors demonstrated significant continental economic integration but did not develop significant transborder governance.
3. In other sectors trinational regulatory harmonization resulted less from continental than from global governance.
4. Still other industries moved from being continentally to being globally integrated.
5. Since September 2001, traditional forms of Washington-driven bilateral relations have predominated in matters of military defence and border security.

The elaboration of these five themes will show how North America’s governance trend line was moving away from -- not converging with -- the hegemony-off-setting, solidarity-boosting model that energized transnational regionalism in Europe.
1. Formal trilateral institutionalization

If North America qualified for consideration as a world region, this was thanks to two economic agreements, the first forged bilaterally between United States and its northern neighbour as the Canada-United States Free Trade Agreement (CUFTA, which entered into force January 1, 1989). The continent acquired a stronger international image when CUFTA's provisions were deepened and extended to include Mexico exactly five years later, but the new entity was institutionally empty. NAFTA had no legal personality, so could not negotiate international agreements. With no executive, legislative, or administrative capacity of note, only its judicial bodies could claim any substance. Even as instruments of conflict resolution, these dispute-settlement mechanisms proved less effective than those of the World Trade Organization. On issues where powerful US lobbies wielded political clout, Washington which repeatedly defied rulings by both NAFTA and WTO arbitral panels when they favoured Canada or Mexico.

NAFTA’s institutional vacuum does not mean that its norms, rules, and rights are inconsequential. On the contrary, these three components of what can be understood as each signatory's external constitution severely disciplined the practices of the two peripheral states, if not those of the centre. For instance:

- The extension of the national treatment norm beyond governing goods (as it did under the General Agreement on Tariffs and Trade) to include foreign investment required a wholesale abandonment of Canada's industrial-strategy policies that had previously bolstered domestic corporations' capacity to compete with foreign -- mainly American -- companies. Applying national treatment to investment also nailed shut the coffin of Mexico's import substitution industrialization model, which had delivered an annual growth rate of 6 percent from World War II to the early 1980s.

- Dozens of new rules prohibited Canada, for example, from imposing on the petroleum it was exporting to the United States a higher price than that prevailing in the domestic market or from reducing exports to preserve diminishing energy reserves. For its part, Mexico agreed to open up its banking sector to foreign control.

- Important new rights were granted foreign investors who could now directly sue North American host governments from the municipal to the federal levels for regulations they deemed tantamount to expropriating their corporations’ assets.

Although these norms, rules, and rights were consequential, NAFTA's legislative and executive institutions had little substance. To be sure, NAFTA boasts an executive body, the North American Free Trade Commission, but this commission has no staff, no address, and no budget. Despite its substantial responsibilities for managing NAFTA’s implementation, this Commission consists solely of sporadic meetings by the three countries’ trade minister, secretary, or representative who have turned out to be loath to make major decisions.

As for a legislative capacity to add to or amend NAFTA's new norms, rules, or rights -- a necessary feature of any multilateral body that hopes to retain its relevance as conditions evolve -- this “world region” has none. Changes in NAFTA's normative structure require trilateral intergovernmental negotiations by the three states' federal executives and ratification by their legislatures.

Nor does NAFTA have much in the way of an administrative arm. Buried in each of the three governments’ trade departments, there is a small office responsible for documenting NAFTA-
related business. NAFTA's remaining bureaucratic sinew consists of some thirty committees and working groups mandated by the Agreement's various chapters. These trinational groupings, which are meant to be staffed by middle-level civil servants from each federal government, barely exist in practice.\(^5\)

NAFTA's only institutional features with any strength are judicial.\(^6\) But of the half dozen different dispute settlement mechanisms, two have remained dormant (those relating to energy and financial institutions) and two are ineffectual (those of the Environmental and Labour Cooperation Commissions). The Agreement's chief conflict resolution processes are specified in Chapters 20, 19, and 11. Disputes between the parties over the interpretation and implementation of NAFTA's provisions were to be resolved by panels established under Chapter 20's clauses, but the panel rulings merely take the form of recommendations submitted to the NAFTA trade commission -- that is, the three trade ministers -- who, in turn, can only offer suggestions to their governments about how to proceed. When, for instance, after long delays caused by Washington's deliberate obstructionism, a NAFTA panel ruled that the US government had failed to honour its obligation to allow Mexican truckers access to its market, Washington was not obligated to change its ways and still persists in its non-compliance.

Putatively binding rulings are made by panels established under Chapter 19, which substitute for domestic legal appeals of the antidumping or countervailing duty determinations made by individual states' trade-administrative tribunals. While useful in the majority of cases, the US government's refusal to comply with these rulings in such high-profile cases as the long-drawn-out softwood lumber dispute with Canada underlines the point that NAFTA's institutions enjoy strikingly little clout when it comes to containing the unilateral propensities of the region's hegemon.\(^7\)

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

Not only is the transborder governance established from above by NAFTA's institutions considerably less than observers had cause to expect when listening either to proponents or opponents of what President Ronald Reagan had called North America's economic constitution. More important, NAFTA's institutional superstructure did not deepen or broaden. Far from developing greater strength over time, as neofunctionalists would have expected, NAFTA's institutions have actually withered on their respective vines.

2. Transborder Corporate Governance in Sectors where Geography Matters.

Even if North America is much more institutionally vacuous than the original fanfare over NAFTA led many to hope or fear, the continent may have a greater political-economic reality in other, more commercial respects.\(^8\) Transborder governance can develop from below when clashes of economic interests need to be resolved or when transnational corporations make demands that need to be addressed. In such sectors as agriculture and steel where geographical proximity
matters, powerful US transnational corporations have generated elements of a continental political economy.

**Agriculture**
The North American beef industry is largely integrated across the United States’ Canadian and Mexican borders. An embryo from Alberta may have caused a calf to be born in Mexico. That animal may subsequently be shipped to the Canadian prairies for fattening in order subsequently to be slaughtered in the United States. This picture of transborder integration was shattered in 2003 when an Albertan cow was diagnosed with BSE. Discovering Mad Cow Disease in Canada was a godsend for western American farmers who invoked health regulations to cause the US border to be closed to Canadian beef. Old-fashioned protectionism was good for Montana ranchers, who profited from decreased competition to get higher prices for their herds. In response to Canadian representations, the US Department of Agriculture (USDA) announced a partial reopening of the border to Canadian boneless beef under thirty months of age in August 2003, but the Ranchers-Cattlemen Action Legal Fund (R-CALF) successfully sidetracked the USDA from reopening the Canadian border in May 2004 and again in January 2005. In both cases, the ranchers’ lobby argued before a Montana district court that the USDA had failed to justify its decision to reopen the border in scientific terms consistent with international standards as defined by the OIE.

All this was bad for the US food-processing TNCs which wanted both to import beef from Canada and to export processed beef abroad. Using their superior financial and political muscle, these US TNCs caused the USDA to intervene in the Paris-based Office of International Epizootics to alter the standards for BSE safety. The OIE consequently approved a reduction in the number of risk categories and recast the criteria used to classify countries under each. Canada and the United States were then put within the ‘Controlled BSE Risk’ category as countries that posed a negligible risk of transmitting BSE because of their risk-mitigation measures. In July 2005 the Court of Appeals for the Montana district reversed the earlier injunction and took specific exception to the district court’s interpretation of the scientific standards for reopening the border by making eight specific references to the new OIE guidelines.\(^9\)

A similar battle between US grain growers and US food transportation interests occurred over the Canadian Wheat Board (CWB). When American farmers pushed Washington to impose countervailing duties on Canadian grain exports on the grounds that they were subsidized by the CWB, American food transportation TNCs intervened within the labyrinthine processes of the US trade administration successfully to defend the CWB on whose shipments of high-quality durum wheat they depended.

**Sectoral Continentalization: Steel**
In spite of the fact that, as traditional heavy industry, steel provides the backbone of the old manufacturing economy, the Canadian and Mexican steel sectors did not do well under NAFTA. Since the agreement failed to eliminate or even reduce the protectionist anti-dumping and countervailing-duty actions with which the US steel industry had long been harassing imports coming from more efficient foreign competitors, Canadian steel companies invested heavily inside the US market. Their American subsidiaries became active members of such US industry associations as the American Iron and Steel Institute and proceeded to lobby in 2002– along with the US steelworkers’ union, which had fortuitously been run for a decade by Canadian presidents – to exempt Canada (and also Mexico) from the George W. Bush administration’s safeguard duties on foreign steel imports. This collaborative action suggested that, in the steel sector, a single, if informal, governance space was developing in which Canadian, and later Mexican,
firms partially Americanized themselves within the US economy – as opposed to creating a continent-wide industry containing nationally competitive elements.

Symptomatic of this trilateralism was the creation of an instrument of trinational governance, the North American Steel Trade Committee. The NASTC involved the three governments with their respective industry associations in order to develop common North American policy positions for the ultimately failed negotiations of a Free Trade Area of the Americas, at the OECD, and for the World Trade Organization. This was a rare example supporting a functionalist understanding of regional development since the steel industry showed an economic sector experiencing multilevel governance with the three domestic industries, their respective national lobby organizations, and the three federal governments all learning to cooperate in hemispheric and global negotiations.

Having flourished under import substitution industrialization following World War II, the Mexican steel industry was seriously weakened by the lifting of government protection in the 1980s. The Canadian industry was much better positioned to participate in the US economy than was its Mexican counterpart, but the acquisition in 2006 of its six largest and domestically owned corporations by Brazilian, Indian, and American conglomerates suggested that NASTC’s apparently continental regulatory consolidation had been trumped by the forces of corporate globalization.

3. Trinational Policy Harmonization within Global Corporate Governance.
In some economic sectors where geographical contiguity is of minor import, signs of trinational policy harmonization may have nothing to do with regional governance. Intellectual property rights for pharmaceuticals makes this point.

**Intellectual property rights for pharmaceuticals**
Changes to intellectual property rights (IPRs) for pharmaceuticals in North America were driven not by those defined in NAFTA’s Chapter 17 but by the WTO’s almost identical TRIPs agreement which represented the triumph of US Big Pharma and its European and Japanese pharmaceutical counterparts in achieving a new global legal regime for this sector. The fact that Washington uses the WTO’s dispute settlement body -- rather than NAFTA’s -- as its legal venue for pressing Canada to make concessions to US branded drug companies suggests that weak continental judicial governance has been trumped by the stronger alternative established at the global level.

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

With a much less robust set of banks, that were nationalized in 1982 following one of the country’s periodic currency crises, Mexico found itself at the receiving end of transnationalized banking. NAFTA had required it to open specified portions of its re-privatized banks to foreign ownership according to a defined schedule, but, in the shock of the 1994-5 peso crisis, the IMF, the World Bank, and the US Treasury used their financial bailout to force Mexico to drop its timetable restrictions immediately. After a feeding frenzy of foreign banks acquiring domestic
partners, Mexicans found that all but one of their banks had fallen under foreign ownership, with Spanish capital taking a larger share than American. The financial services sector in North America's three economies has thus become more globally than continentally restructured, NAFTA notwithstanding.

Although some harmonization of the three banking sectors’ regulatory systems has occurred within North America, this is not a result of any transborder governance created by NAFTA. Rather, this apparent continentalization actually reflects the three countries' individual participation in global governance. If banking regulations in the United States, Mexico, and Canada were becoming more similar before the global meltdown of 2008, this was because the three central banks’ participated in the monthly meetings of the Bank of International Settlements in Basel whose multilaterally negotiated norms were then applied at home. Instead of banking regulations showing that North America had become a “world region,” they indicated that the three countries of North America were simply separate players in a global mode of regulation. It thus behooves us to be cautious about inferring a regional significance to signs of harmonization that are located in North America unless they can be shown to be specific to the continent.

4. From Continental to Global Sectoral Integration
If NAFTA produced any clear winners, these were surely the US auto and textile sectors, which managed to obtain rules of origin which gave them protection – at least for a time – from their Asian and European competitors. This section will consider these two instructive cases.

Automobiles
As the culmination of many years of US automotive transnational corporations’ lobbying, NAFTA was thought to have set up a fully integrated system of production for those manufacturers – principally the Detroit Three – that could meet its protectionist rules-of-origin requirements. However, the trilateral working groups created to negotiate further continental safety and emissions standards proved incapable of producing the regulatory harmonization necessary for a fully integrated continental production system.

Meanwhile, competition from manufacturers in Europe and Asia undermined the American auto assemblers' oligopolistic dominance in the continent. The resulting trans-oceanic corporate consolidation through mergers and equity linkages, which created six automotive groups accounting for 80 percent of world production, was developing a regime of accumulation which was truly global and generating pressures to leapfrog the continental space to create a globally harmonized system of regulation for the automotive industry. At the same time, continuing foreign auto and auto-parts investment in both Ontario (which boasts an excellent transportation infrastructure and the lower costs for employers that accrue from a public medical system) and Mexico (which offers well-trained labour power at one fourteenth of US wages) reduced the disparity between the two peripheries’ car economies but did not reduce their mutual dependence on the vitality of the US market.

Textiles
NAFTA’s rules of origin also appeared to succeed in connecting the three countries' disparate textile and apparel industries in a common North American production system, in which the interests of US firms combined more intimately with their burgeoning Mexican counterparts than they did with shrinking Canadian companies. The asymmetries in this trilateral matrimony grew as NAFTA-generated continental market governance collapsed in the face of two exogenous adversities – the expiry in 2005 of the Multi-Fibre Agreement (which had allowed industrialized
Continental production in a severely shaken textile and apparel industry still revolves around an American hub, with US industry responding unilaterally to its challenges, a battered Mexican industry retreating to the informal economy, and a hollowed out Canadian sector sitting on the sidelines. Continental governance in this sector amounts to little more than NAFTA's ageing rules of origin made increasingly irrelevant by Washington's bilateral agreements with other trading partners. Far from being a privileged member of a regional regime, Mexico found itself discriminated against in the United States' Central America Free Trade Agreement which gave the Central American republics better access to US markets than had Mexico.

These two examples, along with the takeover of five of the six largest Canadian steel mills by corporations headquartered overseas suggest that, whatever sectoral basis may have existed for the establishment of a trinational mode of regulation, North America had become too small a territorial entity to support its own regime of continental governance. This process of globalization transforming the regional marketplace suggests, first, that the economic trend within the three-state area is centrifugal not centripetal and, second, that the economic basis for a consolidation of North American regionalism is deteriorating.

5. Intergovernmental Security and Defence Relations.
In matters of national defence since September 11, 2001, North American governance has reverted to earlier modes of government-to-government relations in which the continental hegemon presses its neighbouring governments to bend to its will, in this case to guarantee the security of the American homeland. 10

Defence
In contrast with homeland security trilateralism, an absence of three-way dialogue characterized each periphery country’s reversion to its Cold-War behaviour as it engaged with the military dimension of the US security shift. Responding to US Northern Command -- the Pentagon’s reorganization of its command structure for North American defence -- Ottawa reorganized its own armed forces into a Canada Command, participated in a binational military planning group, and agreed to extend bilateral military integration under the North American Aerospace Defence command from its air force to include its navy.

Just as Canada reverted to its Cold-War junior partnership with the Pentagon upon the declaration of the new anti-terrorist war, Mexico reverted to its Cold-War estrangement. Far from a ingratiating itself with Washington by sending troops or even support personnel to Afghanistan (as did Canada), Mexico withheld even moral support and reaffirmed its long tradition of non-intervention beyond its frontiers. Although the Mexican fleet was comfortable cooperating with the US Navy on security exercises in the Gulf of Mexico, the Mexican military would not collaborate with the US Army beyond the kind of disaster relief it supplied in the wake of Hurricane Katrina's destruction of New Orleans in 2005. While sending a Mexican military observer to bilateral US-Canadian meetings at NORAD was seen to be a major step forward, the ominous significance attributed to this gesture by Mexican nationalists underlined the enormous discrepancy that persisted between the two bilateral relationships in North America's defense circles and confirmed the absence of any meaningful trinational governance in military matters. But because terrorism involved threats emanating from non-state actors who might send individuals, not armies, to infiltrate the United States, "homeland security” as defined by the
George W Bush administration in the aftermath of the September 11, 2001 attacks required the Mexican border to be taken just as seriously as the Canadian.

Security

Provoked by the terrorist attacks on New York and Washington, the paradigm shift by the US government instantly affected the dynamic driving North American governance. The economic integration fostered by NAFTA had been reducing the government-made economic barriers along the United States’ two territorial borders, allowing the marketplace freer rein to increase human and economic flows across the continent. Throughout the 1990s, growth in cross-border traffic in goods and people generated increased attention to border governance issues. Concerned about the efficiency of their continent-wide production systems, business coalitions lobbied their governments to make the increased investments in the transportation and security technology needed to create a near-borderless continent. President Clinton had signed agreements with Ottawa in the mid-1990s to improve border security management, but his administration did not take significant steps in this direction. “9/11” generated the urgent political will in Washington that was required for strengthening North America’s border-security systems and its military defence.

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

In the post-September-11th handling of US border security, traditional binational relations reasserted themselves in response to US unilateralism, Uncle Sam dealing separately with each periphery.11 These intergovernmental negotiations were supplemented on the Canadian side by an unusually active business-coalition involvement in the design of new security systems. This new intensity of heterarchical governance impinged on but did not displace the traditional, government-to-government hierarchy. During this first phase of the US domestic war on terror, a detailed 30-point US-Canada Smart Border agreement was negotiated with a very substantial Canadian input and signed in Ottawa in December 2001. By March 2002, Washington had used the template it had worked out with Ottawa to establish a parallel 22-point Smart Border agreement with Mexico City. Subsequently, Canada and Mexico's bilateral collaboration added a third relationship to intergovernmental security relations within North America. This reactivated regionalism was unusual. On the one hand, it reinforced Washington's dominance by incorporating Canada and Mexico in an extended zone of US-led continental policy making. At the same time, the new trilateralism reduced the power asymmetry between the hegemon and the periphery because US security became dependent on the Mexican and Canadian governments' fulfilling their anti-terrorism policy commitments.

While the first years following September 2001 showed North America to be a more unilateral, US-defined political space, the proclamation of a Security and Prosperity Partnership for North America (SPP) by the three governments' leaders following their March 2005 meeting in Waco, Texas appeared to herald a shift towards a more trilaterally governed continent. Nationalist critics in the three countries feared SPP was a manoeuvre through which the executives in Canada and Mexico were advancing their agenda stealthily to integrate their political systems with each other.
As seen by the Mexican presidency, SPP presented a valuable opportunity to resolve many irritating problems in the bilateral economic relationship and so move NAFTA incrementally towards Mexico's grander vision of a EU-type regional governance. The new strategy involved a trade-off. First, Mexico would comply fully with US demands on security matters. Once it gained access to the US policy loop, it would negotiate the regulatory corollaries that applied to trade. If SPP negotiations could produce certification standards governing Mexican foodstuffs, such Mexican products as avocados would no longer be vulnerable to border stoppages arbitrarily declared by the US Food and Drug Administration. This negotiated regime would then give Mexico's agricultural exporters a competitive advantage in responding to US farm lobby demands over their rivals in Latin America, Asia, and even Europe.

While the bulk of SPP’s proposed measures dealt with either the US-Canada or the US-Mexico relationship, the informal telephone and e-mail communications among the bureaucrats who had put them together suggested that a significant trilateral space was being created in the process. Although the security side of SPP extended Washington's dominance in the continent beyond any point it had previously achieved, the prosperity issues seemed to offer some counter-asymmetrical power for the periphery. "Regulatory harmonization" might conjure up images of Mexico and Canada simply having to adopt US standards, but the complexities and differences between each country's multi-level governmental system implied that this scenario was unlikely to be achieved by American bullying. Instead, issues would have to be worked out pragmatically with Washington accepting its incapacity simply to impose its norms on the periphery. In some cases, the American officials would still be giving their Mexican counterparts the familiar "do it our way or your product will not cross our border" message. In others, a practical problem would have to be worked out by all parties having to resolve their problems cooperatively.

Anti-terrorist border security driven by US pressure on its neighbours generated an inter-governmental policy mode in which the hegemon ended up depending on the periphery’s collaboration. In this process, the power asymmetry between the continental centre and its periphery was simultaneously intensified and mitigated. The bilateral US-Mexico Merida Initiative of 2007 signaled a historic sea change to the extent that Washington recognized how much of its societal security depended on Mexico’s bringing its own drug cartels under control, while Mexico recognized it could not achieve domestic security without massive US financial and technological assistance.

That the 2001 US-Canada border agreement provided Washington with a template for its arrangement with Mexico also suggested that this process diminished the difference that had once distinguished Ottawa's relationship with the US government from Mexico City's. Although narco-traffic and immigration pressures were far more intense along its southern than its northern border, Congress pushed the Administration to adopt common policies on the Western Hemisphere Travel Initiative and biometric identity cards for all persons crossing US borders. For its part, the George W. Bush administration's support for universal technological solutions to the passage of low-risk merchandise across its border and through its ports of entry and the Barrack Obama administration's insistence that the two borders be treated equally further reduced the disparity between the two countries’ responses to Washington.

The new dynamics of security also helped nourish the continent's third dyadic relationship that had slowly, sometimes reluctantly developed between Mexico and Canada ever since Ottawa had joined the US-Mexico negotiations leading to NAFTA. North America's third bilateral was given a major boost during the anxious months before President George W. Bush's declaration of war against Iraq, when Prime Minister Jean Chrétien developed an oppositional axis with President
Vicente Fox in an effort to block the impending invasion by generating a countervailing coalition of unwilling states at the United Nations.

Corporate leaders in the three countries, who aspired to operate in a borderless North America, criticized the SPP as a mere wish list of low-profile bureaucratic initiatives whose implementation would do nothing to engage with such major challenges facing the continent as a common currency, a customs union, or a fully integrated energy market. This business animus caused the SPP to set up a trilateral, big-business-led North American Competitiveness Council (NACC) to co-direct the trilateral project, but when the SPP proved unable to overcome the Department of Homeland Security (DHS)’s privileging border security over border trade, the NACC’s corporate giants lost interest in co-piloting the new system.

Although the SPP reaffirmed the three federal governments’ rhetorical commitment to reconcile the demand for maximum border security with the integrated economy’s need for minimum border-trade restrictions, DHS’s institutional autonomy within the Beltway resulted in ever more onerous border restrictions being imposed on travelers and trucks alike. Supplementing the SPP with an annual leaders’ summit in 2006 did not herald North America embarking on any grander institutional project.

Indeed, vehement opposition to the SPP from right-wing nationalists in the United States and left-wing nationalists in Canada and Mexico combined to push the SPP into oblivion. When newly elected President Barrack Obama met his counterparts in the North American leaders’ summit in Guadalajara, the Security and Prosperity Partnership had disappeared from the agenda.

The overwhelming US effort to transform its “homeland security” has indeed created a “new regionalism” in North America, one that extends the US security perimeter to Canada’s and Mexico’s external boundaries. This is indeed transborder governance, but it remains highly asymmetrical (in being US-dominated) and unbalanced (in that Canada’s participation in the bilateral relationship is enthusiastic and compliant while Mexico’s involvement is more reluctant and passive).

Continental Governance before the Crisis
So far we have seen that, even before the financial crisis shook its three countries, North America could hardly be considered a world region displaying a new mode of transborder governance. NAFTA had created a formal structure on paper, but its institutions were too weak to construct mechanisms that would generate a self-sustaining dynamic at the continental level. Nor could its institutions offset the power of the dominant member while augmenting that of the smaller ones. On the contrary, while NAFTA’s rule changes obliged Canada and Mexico to give up considerable autonomy in order to conform to American objectives, the United States refused to comply with judicial rulings limiting its own trade protection measures.

NAFTA’s norms favoured the transnational operations of large corporations, most of which are American. Its investor-state dispute settlement panels favoured the strong (transnational investors) over the weak. The application to North America of the neoconservative paradigm had successfully constrained the two peripheral governments on the one hand and liberated corporations on the other. As a result, private actors’ involvement in policy areas increased, but mainly through Washington’s issue networks in which TNCs played large, but spontaneous and so unpredictable, roles.
In all the sectors where geographical proximity mattered, North America became a space in which US hegemonic control increased. Having failed to gain exemptions from US trade protectionist processes, the two peripheries' industries converged on the centre. Complex rules of origin caused large structural adjustments in the textile and apparel industries while not protecting either of them from the impact of changes in global governance (end of Multi-Fibre Agreement) or the global balance of power (China), or the auto sector from corporate restructuring.

After NAFTA's first decade: it was clear that North America was not evolving towards a continental regime of governance. None of the three governments paid heed to the interests of the continent in general or even to those of its two neighbours in particular. When the newly elected president, Vicente Fox, urged his North American counterparts in 2000 to adopt a solidarity principle that would commit North America's two rich countries to providing Mexico with substantial aid, neither Washington nor Ottawa took the idea seriously.

II Continental Governance under and after the Crisis
It is said that crises bring out the best in people. The 2007 sub-prime financial crisis brought out the worst in North America, showing its continental governance to be completely irrelevant in playing a part in its rescue. No trilateral summit convened to work out a North American position prior to the global governance meetings of the G20 or G8. Like all other capitals, Ottawa and Mexico City simply waited to see what Washington would do. When it came to bailing out the North American automobile industry, Washington made the structural and financial positions while Ottawa and Toronto waited, pens ready, to see how big a cheque they would have to fill out.

Far from being seen as a helpful crutch, NAFTA had already been identified as a threat to industrial jobs by Barrack Obama when he was campaigning for the Democratic nomination. Nor was NAFTA even able to protect existing levels of trinational integration when its spirit was rejected as the Obama administration endorsed the US Congress’ attaching Buy-America provisions to the government's massive stimulus package. As a result of requirements that all the stimulus money dispensed by Congress be spent on projects having 100 per cent American content, transnational corporations had to break their cross-border production chains and seek suppliers of all their products’ components from within the American market. While walling itself off in commercial terms, the United States is also walling itself off territorially by continuing to build an impassable fence along its border with Mexico.

For its part, Canada's ideologically extreme Conservative government preened itself on its banking system (which had been exempted from NAFTA's liberalizing provisions) being closely regulated enough to have survived intact. Having first denied the seriousness of the crisis, Ottawa then conformed to the international consensus that had veered suddenly from a neoconservative scorn for government regulation to a Keynesian faith that state intervention in the marketplace could save capitalism from itself. At the same time, Canada began erecting walls of its own, although in this case these barriers are politically constructed. The Stephen Harper government made clear that it is no longer interested in supporting North American trilateralism. On the contrary, it wanted to re-establish Ottawa's special bilateral relationship with Washington that Canadian political and economic elites nostalgically remembered as characterizing Canada's diplomatic golden age. The federal government pointedly highlighted its rejection of North America's embryonic trilateralism by requiring all Mexicans — including tourists — wanting to come to Canada to apply for visas in a process which is humiliating for applicants and counter-productive for the Canadian tourist industry.
Humiliated by Canada and walled off by the United States, the Mexican government finds itself isolated from rather than integrated in the two developed economies to the north with which it implemented NAFTA sixteen years ago. Battered by destructive storms, shaken by an influenza panic, displaced by China as United States' prime source of low-cost products, destabilized by ever more violent drug cartels, and isolated by the US security wall along its northern border, Mexico was left to cope on its own with the disastrous consequences of having hitched its economy to the hegemon's. While other economies in the hemisphere stagnated during the crisis, Mexico’s was the only one to suffer a 7.5% decrease in its GDP. It suffered alone.

Since Barrack Obama was sworn in, the leaders of Mexico, Canada, and the United States did meet at a publicly billed "leaders' summit" in Guadalajara in 2009. However the get-together was so inconsequential that it served more to confirm the absence than the presence of continental governance in North America, where the federal and provincial/state governments do the governing and business does the complaining to nationally or locally elected politicians, while each civil society watches -- ever more helpless -- from the sidelines within its national boundaries.

**Theoretical Reflections**

North America's failure to conform to regional scholars' expectations raises several implications for thinking about turn-of-the-century regionalism and its ideological underpinnings.

The new “new regionalism.” For 50 years, Europe's supranational regional governance was taken to be the prototype for a regionalized global order. Various formulations tried to pinpoint the conceptual kernel of this exciting development. For instance, a "neo-functionalist" school of thought posited that transborder economic integration would engender a necessarily inevitable strengthening of community-wide institutions and a corresponding weakening of national state governments. “Intergovernmentalism” would tie the hands of the more powerful member states in the region while strengthening those of the weaker. Neither of these theories found traction on the other side of the Atlantic Ocean. Overall, the three economies became more integrated but no continental institutions of significance emerged to regulate the new continental economic space. Far from having its hands tied, the hegemon's powers remained unhampered while it was those of its neighbours which were constrained.

Clearly, North American integration did not conform to this theorization of the largely social democratic European experience. Even where massive integration is happening, a corresponding governance is not developing. The huge informal cross-border labour market, in which Canada and Mexico respectively constitute the largest suppliers of trained and unskilled labourer to the United States, is crying out in vain for overt regulation. The gigantic illegal cross-border narcotics traffic and the supply of high-powered weapons by US manufacturers to the Mexican and Canadian drug cartels ought to be -- but has not been -- addressed even though Mexico is poised to collapse as a failed state. A cap-and-trade system to contain the environmental catastrophe of climate warming would best function if the three countries adopt a common system, but nothing happens as allwait for the US Congress to make the first move. Canada and Mexico are very much part of the problem in these three fields, but it appears that domestic US politics will once again determine the parameters for their solution.

**Ideational Implications for Neoconservatism.**
Increased transborder investment flows may have fostered the growth of a more continentalized economic elite, but citizen attitudes have remained measurably resistant to an emerging continental consciousness in the face of a persisting national identity. To the extent that there has been a breaking down of the national, it has either been in favour of globalized -- rather than continentalized -- thinking via the Internet or has privileged local cross-border issues such as Hispanic immigration into the United States.

For three decades, the nostrums of neoconservatism have prevailed in the corridors of power. This powerful ideology successfully forestalled the structuring of an economically liberalized North America without any real capacity for a continental governance could address the three member states' common problems. Having failed to achieve growth rates matching those of the previous and much maligned Keynesian era, having redistributed wealth to the super-rich and exacerbated the poverty of the extremely poor, having proven unable to cope with either terrorism or narcotics, either global warming or mass migration movements, it might be thought to have reached the end of its tether.

The surprising persistence of an ideology that has failed and a North American political economy that does not work raises a puzzling possibility for us to consider in conclusion. Although North America's neoconservative contours may offend the liberal mind, it is possible it has set the standard for the regionalism emerging in the twenty-first century in which can be found:
- few institutional constraints on a largely autonomous hegemon,
- decreased autonomy for its partners,
- increased capacity for transnational business, and
- diminished access for a polarized civil society to what are are becoming increasingly dispersed centres of power.

To the extent that it has been discredited, neoconservative regionalism has been displaced by variations on the theme of security xenophobia, not by a revived Keynesianism that would offer an inclusive, demographic, and solidaristic politics. This leaves North America with a quietly dis-integrating economy, a maximally integrating security system, and three national governments increasingly disinclined to cooperate with each other to achieve a greater good.

Comments and criticisms welcomed: stephen.clarkson@utoronto.ca
References


4 For an elaboration of the argument that continental free trade agreements combined with the World Trade Organization comprise an external constitution for its member-states, see Stephen Clarkson, “Canada’s External Constitution under Global Trade Governance,” in Ysolde Gendreau, réd., Dessiner la société par le droit/Mapping Society Through Law (Les Éditions Thémis, CRDP, Université de Montréal, 2004), 1-31.


7 In contrast with the coercive control exercised by an imperial power, "hegemon" is used in this chapter to denote the leader of a regime whose weaker members participate in formulating the norms and rules by which the system is governed.


9 US Court of Appeals for the Ninth Circuit, no. 05–35264


11 This was not unusual; see Brian Bow, “When in Rome” Comparing Canadian and Mexican Strategies for Influencing Policy Outcomes in the United States.” Canadian-American Public Policy 65 (2006).
