



# TRIUMVIRATE

The North American Model Legislature  
Montreal, from the 25<sup>th</sup> to the 30<sup>th</sup> of May, 2008  
Organized by the North American Forum on Integration (NAFI)

## PARTICIPANT'S HANDBOOK

(Last modified: April 27<sup>th</sup>, 2008)



## TABLE OF CONTENTS

1. NAFI Secretariat Word of Welcome.....	3
2. General Presentation of NAFI.....	4
3. Roles and Responsibilities .....	5
Legislators.....	5
Journalists .....	5
Lobbyists.....	6
Executive Committee.....	7
Caucus and Commission Chairpersons.....	7
Code of Conduct and Policy.....	7
4. Draft resolutions.....	8
Draft Resolution for Fostering Renewable Electricity Markets.....	9
Draft Resolution for Countering North American corporate outsourcing .....	13
Draft resolution on the Western Hemisphere Travel Initiative.....	17
Draft resolution on NAFTA's Chapter 11 on investments.....	22
5. Awards and Distinctions .....	26
Appendix I - Election of Committee Chairperson and Secretary .....	27
Appendix II – Accommodation.....	27
Appendix III - Participating Universities.....	28
Appendix IV-Sponsors.....	30

## 1. NAFI Secretariat Word of Welcome

Dear participants,

The North American Forum on Integration team would like to wish you a warm welcome to the fourth edition of the Triumvirate!

We will soon have the opportunity to all meet in Montreal, where we will be welcomed by the host of the event Montreal City Hall.

Thanks to our virtual commission's link on the Web site, you have all had the opportunity to read your fellow delegates' draft resolutions. With the Participant's Handbook we enter the last stages of the preparation process leading to the Triumvirate.

In this perspective, NAFI has elaborated the four draft resolutions - available in this present document - which will be the topic of discussions during the event. During the simulation, members of the different commissions may decide to modify these draft resolutions or completely rewrite them, depending on their wishes.

Legislators and lobbyists will jump into the heart of the debates which connect the North American partners, in order to present their point views and attempt to rally a majority of legislators to their ideas. The "TrilatHerald" journalists, for their part, will have the responsibility of reporting the simulation's events as well as the discussions' progress. Each morning, participants will have the opportunity to read about the tensions, dissensions and consensus which exist between the legislators, the lobbyists and the media.

The NAFI team is looking forward to meeting you in Montreal. We wish you a fruitful month of preparation.

Sincerely,

Christine Frechette, Executive Director, NAFI

Celine Roche-Crespo, Triumvirate Coordinator

Alejandra Perez, Samir Kadiri , Louis-Philippe Jannard, Guy Abou-Mourad and Marc Kreichati, Triumvirate Project Managers.

## **2. General Presentation of NAFI**

The North American Forum on Integration (NAFI) is a non-profit organization devoted to developing North American dialogue and networks. Created in 2002, NAFI aims to build awareness on the issues raised by North American integration and identify the elements of the North American agenda which would allow the consolidation and reinforcement of the North American region.

By organizing the Triumvirate, NAFI aims to:

- ❖ To bring future Canadian, American and Mexican leaders together in order to experience and take part in an international negotiation exercise.
- ❖ To allow participants to familiarize themselves with the functioning of democratic institutions as well as North American political, economic, environmental and social realities.
- ❖ To develop the participants' sense of belonging to North America.
- ❖ To increase intercultural exchanges and promote the creation of North American academia networks.
- ❖ To inform the current decision makers of the priorities and concerns of North American youth.

### **3. Roles and Responsibilities**

#### **Legislators**

Those simulating the role of legislators at the Triumvirate will discuss the draft resolution assigned to their political commission and negotiate in order to reach a consensus within that commission. Political commission meetings enable you to determine the content of draft resolutions, while country caucuses, give you the opportunity to discuss and negotiate with your colleagues to get their support on the various draft resolutions.

Ideally, such discussions will enable you to reach a consensus within your commission. The consensus will be outlined in the draft resolution notice that will be presented for adoption by each commission chair at a plenary session of the General Assembly.

Note that for a draft resolution to be adopted, it has to obtain a majority of the votes from each country and from each of the legislative levels, as indicated in article 5.2 of the Constitution. There is no individual veto power. Only the veto powers of groups of parliamentarians are recognized in the Constitution.

On Tuesday, Wednesday and Thursday of the Triumvirate week, 30 minutes will be allocated to the legislators and/or lobbyists who wish to address the journalists in a press conference. Participants will have the opportunity to discuss the elements of consensus and dissension within the commissions.

As far as logistics is concerned, to assist you with your work, you are advised to bring along a laptop (if you have one), as well as all necessary material (notebooks, pencils, and documentation, etc.). You will have access to printers and photocopiers during the Triumvirate. However, we ask you to bring a copy of all the documents you have already received: the Constitution that is available on the NAFI 2008 Web site, the Participant's Handbook, and the Commissions Guide.

#### **Journalists**

Your role as a journalist is to contribute in producing the daily editions of the "TrilatHerald" for a total of five editions, from Monday morning to Friday morning. The newspaper will consist of articles in the three official languages English, Spanish and French. The "TrilatHerald" is also sent to all our sponsors and it is available on-line daily on the NAFI Web site. It is thus our window and "ambassador" to the public and to the sponsors of the event.

Throughout the week, you will be supervised by the editor-in-chief who will assign you the commissions and events to cover. You will have access to all participants; however, interviews with guest speakers require prior authorization from the editor-in-chief. Journalists set their own schedule. The deadline for the submission of articles will be determined by the managing editor.

On Tuesday, Wednesday and Thursday of the Triumvirate week, 30 minutes will be allocated to the legislators and/or lobbyists who wish to address the journalists in a press conference. Participants will have the opportunity to discuss the elements of consensus and dissension within the commissions.

A newsroom has been set up to facilitate your work in the hotel. If possible, it is recommended to bring a laptop, a recorder, a digital camera, their operating software as well as your linguistic tools (dictionaries, conjugation guides, grammar books, etc).

Every journalist must respect the following guidelines on formal writing:

- Precise and validated information;
- Accuracy of facts and clarity of ideas;
- Intellectual and methodological precision in writing.

## Lobbyists

As a representative of an interest group, you will ensure that the draft resolutions adopted by the General Assembly take into account and reflect the interests of your organization. You are thus required to put pressure on legislators in both caucuses and political commissions in order to persuade them to accept your proposals. In order to be invited to the caucus, lobbyists must submit a formal request to the chair of a given caucus. As for the political commissions, you will be invited to testify as experts, to comment on draft resolutions and suggest amendments. You can also attend all commissions as observers. You must also publish an open letter in the "TrilatHerald" supporting your viewpoints and stating the support that you have received.

On Tuesday, Wednesday and Thursday of the Triumvirate week, 30 minutes will be allocated to the legislators and/or lobbyists who wish to address the journalists in a press conference. Each lobbyist must take part to at least one press conference and are invited to participate to others, should they wish to. Participants will have the opportunity to discuss the elements of consensus and dissension within the commissions.

You should have the necessary material that is required to accomplish the task (e.g.: laptop is possible, flyers, position paper to be distributed to members of political commissions and to journalists).

## Executive Committee

The role and mandate of the members of the Executive Committee are specified in the Constitution (art. 3.2). Your role as a member of the executive committee will consist of ensuring the smooth conduct of the Triumvirate's work within the framework of the Constitution. Please note that the members of the Executive Committee also act as legislators.

## Caucus and Commission Chairpersons

The role and mandate of commission and caucus chairs are specified in the Constitution (art. 3.4 and 3.5).

Chairs must ensure that the Constitution and regulations are respected and that order is maintained during sessions. They must act in a manner that helps their commission or caucus to accomplish their mandates and respect the allotted time. Note that commission and caucus chairs also act as legislators.

The Chairs and secretaries of political commissions as well as the presidents of country caucuses will be elected as per the election procedure outlined in Appendix II.

## Code of Conduct and Policy

You must act in a respectful and professional manner throughout the Triumvirate.

All participants must show respect toward their colleagues, as much in their behaviour as in their language. No disrespectful words, gestures or behaviour will be tolerated, nor any kind of misconduct or lack of respect. It is important to remember that participants play a role throughout the simulation.

Participants should also show respect for property in their rooms and during the Triumvirate. Participants are fully responsible for any damage caused.

As far as the political line of thinking is concerned, legislators have to reflect the usual attitudes and characteristics of the State that they represent and the interests of the parliamentarians of the State they represent. Journalists, for their part, must respect the basic rules of journalism. With these points in mind, legislators are free to express their views with respect to the issues being debated.

NAFI is sorry to inform you that this year's event will take place in English and French only. Simultaneous interpretation will be available during the plenary session debates; however the political commissions will each take place in one of the two Triumvirate languages. This year:

- The commissions on Fostering Renewable Electricity Markets, Western Hemisphere Travel Initiative and NAFTA's Chapter 11 on investments will take place in English;
- The commission on Countering North American corporate outsourcing will take place in French.

As for the dress code, business attire is mandatory. Any person in flip flops, any type of jean material, without a suit jacket, and for men without a tie will not be allowed to take part in the sessions.

Punctuality is extremely important. The sessions will begin precisely at the appointed time. Please respect your colleagues and arrive at each session on time.

#### **4. Draft resolutions**

The Secretariat has developed four draft resolutions from the preliminary draft resolutions presented by legislators. Each draft resolution will be debated and negotiated in political commissions, caucuses and plenary sessions.



## **DRAFT RESOLUTION ON RENEWABLE ELECTRICITY MARKETS IN NORTH AMERICA**

Proposed by the Executive Committee of the Triumvirate  
May 2008

---

### **EXPLANATORY NOTES**

Renewable electricity is derived from unlimited energy sources such as the sun, wind, water, nuclear, biomass and heat from the Earth's interior.

Renewable electricity markets are becoming more and more important in today's North American societies especially when this particular way of transforming energy sources aims at reducing greenhouse gas emissions (GHG) which acts positively against climate change. There is tremendous opportunity for renewable electricity to meet an increasing proportion of the North American electricity market.

The rising price of oil in international markets has been a crucial factor in terms of 'stimulating' renewable electricity markets. This gives potential suppliers economic credibility, having therefore economic benefits beyond environmental gains.

Some of us have adopted mandatory targets for the purchase/production of renewable electricity. Others have adopted a voluntary approach for governmental agencies and large corporations. We consider that the time has come to deepen our collective effort and strengthen our actions in order to make of our region a leader in the global challenge we face to limit the impact of our energy consumption on climate change and increase our energy security in diversifying our energy portfolio.

North American legislators consider that there is room for improvement. Effective public policies need to be more widely implemented to foster the use of renewable electricity.

## **FOSTERING RENEWABLE ELECTRICITY MARKETS IN NORTH AMERICA**

### DEFINITION

Hereafter, the term ‘renewable electricity’ or simply “RE” will be used to refer to all renewable energy sources for the generation of electricity, including sun, wind, water, biomass, nuclear and heat from the Earth’s interior.

## **CHAPTER I - DEVELOPING RENEWABLE ELECTRICITY MARKETS IN NORTH AMERICA: OBJECTIVES AND PRINCIPLES**

### SECTION I - OBJECTIVES

#### *Article 1.1 Increase energy security and diversify energy portfolio*

North American legislators agree to increase the supply of electricity derived from renewable sources. As a result, they promote sustainable development and wish to increase North America’s energy security by diversifying States’ energy portfolios.

### SECTION II – TRANSPARENCY PRINCIPLES

#### *Article 1.2 Mandatory transparency for electric companies*

Realizing that in order to act efficiently, clear and comparable information must be available; the North American legislators therefore recommend that States adopt rules requiring companies producing electricity on their territory to make information regarding their use of renewable and non-renewable energy public.

## **CHAPTER II - DEVELOPING RENEWABLE ELECTRICITY MARKETS IN NORTH AMERICA: MECHANISMS**

### SECTION I – DIVERSIFYING THE OFFER

The *per capita* energy consumption rate increases every year in North America making it necessary to augment the production of energy.

#### *Article 2.1 Aiming for a marginal increase*

In order to limit the environmental impact of increased energy consumption, the North American legislators statute that by the year 2012 all marginal augmentation of energy production shall be composed of at least 10% of renewable sources.

#### *Article 2.2 Ensuring a minimal percentage of renewable electricity*

It is understood that each North American state whether detaining a minimal percentage of renewable energy in their portfolio of global energy production must reach 2% by 2010, 15% by 2020 and 25% by 2030.

#### *Article 2.3 Emissions and exchange of renewable energy certificates (REC)*

Renewable energy producers shall be allocated, by a recognized agency, renewable energy certificates (REC) which may then be bought and sold on the North American REC market.

This would allow those who have produced a large amount of renewable energy to make a profit and those who have not to compensate for their low renewable energy production

## SECTION II – PROMOTING DEMAND

Many consumers wish to increase their renewable energy consumption however do not because of a lack of information.

### *Article 2.3 Offering the possibility of choosing the type of energy consumed*

In order to promote renewable energy, legislators encourage all State governments to demand electric companies operating on their territory to offer the consumers the possibility of buying energy produced with renewable energy sources.

### *Article 2.4 Produce, buy or import*

Companies will be free to either produce renewable electricity themselves, obtain it through contracts with other producers or through RE imports.

### *Article 2.5 Mandatory government agencies purchase*

In order for public authorities to foster the demand of renewable electricity, North American legislators recommend governmental agencies to buy in the following decades an increasing portion of their electricity needs from renewable energy producers. The recommended increase rate is of 25% by 2015; 50% by 2020; and 100% by 2050.

## CHAPTER III – ESTABLISHING A HEALTHY NORTH AMERICAN COMPETITION

The North American legislators realize that the establishment of a competitive environment between States is an avenue that must be explored in order to generate and promote the adoption of proactive behavior in regards to renewable energy. Consequently a North American competitive mechanism must be established in order to encourage and incite States to further rely on renewable sources, becoming world leaders in the domain.

### *Article 3.1. Divulging information*

Each North American Federated State commits to communicating the percentage of renewable energy consumed the previous fiscal year on its territory to the Commission for Environmental Cooperation (CEC) of NAFTA.

### *Article 3.2 North American classification*

Following the previously mentioned article, the CEC will classify North American Federated States from those having the highest percentage of renewable energy consumption to those with the lowest rate.

### *Article 3.3 National fund contribution*

Those Federated States in the lowest third of the classification will have to contribute to a national fund which will finance research programs, education, the promotion of renewable energy or of RE producing infrastructures.

### *Article 3.4 Contribution calculations*

The State's contribution to the fund will amount to 0.0005\$/KWh of the State's annual consumption.

*Article 3.5 Sunset clause*

It is agree upon that this North American system will persist as long as the average of renewable energy consumption of the lowest third of the classification of the States is below 10% of the consumption.





## **PROJET DE RÉSOLUTION SUR LES DÉLOCALISATIONS HORS AMÉRIQUE DU NORD**

Proposé par le Comité exécutif du Triumvirat  
Mai 2008

---

### **PRÉAMBULE**

Désirant agir pour le bien être, la prospérité, la création et le maintien d'emplois en Amérique du Nord;

Témoins du fait que le contexte économique actuel est caractérisé par la compétitivité entre blocs économiques régionaux, tels l'Union européenne, le Mercosur, l'ASEAN et l'ALÉNA.

Reconnaissants que l'ALÉNA vise notamment à éliminer les barrières au commerce et ainsi, à encourager les entreprises à déployer leurs marchés, leurs activités et leurs chaînes de production à l'échelle de l'Amérique du Nord, occasionnant parfois des déplacements d'activités;

Inquiets de constater qu'une série de mesures législatives ont été adoptées en vue de contraindre la mobilité des entreprises au sein de la zone ALÉNA;

Rappelant la nécessité pour les dirigeants politiques d'adopter des lois n'allant pas à l'encontre de l'esprit de l'ALÉNA;

Déplorant que nombre d'entreprises, auparavant établies en Amérique du Nord, aient choisi au cours des dernières années de délocaliser leurs activités au sein d'autres régions du monde et où les pratiques en matière de droits des travailleurs et d'environnement sont parfois discutables;

Conscients que le phénomène de délocalisations entraîne des préoccupations grandissantes dans la société civile et contribue à fragiliser le tissu économique continental;

Convaincus de la nécessité d'agir pour contribuer à préserver les emplois au sein du territoire nord-américain;

Les parlementaires d'Amérique du Nord, réunis pour la quatrième Assemblée législative du Triumvirat conviennent de ce qui suit :

### **Définition**

Par « délocalisation », il est fait référence à tout transfert d'activités ou d'emplois du territoire de l'Amérique du Nord vers une région située en dehors de l'Amérique du Nord.

Par « déplacement », il est fait référence à tout transfert d'activités ou d'emplois d'une région de l'Amérique du Nord vers une autre région d'Amérique du Nord.

Par « Amérique du Nord », il est fait référence à l'ensemble de la zone territoriale comprenant le Mexique, le Canada et les États-Unis.

## **CHAPITRE PREMIER - PRINCIPES ENTOURANT LE PARTENARIAT NORD-AMÉRICAIN**

### *Article 1. Réaffirmer le partenariat nord-américain*

Nous réaffirmons que l'esprit de l'accord de libre-échange nord-américain (ALÉNA) consiste en l'établissement d'un partenariat économique entre nos trois pays, en vue d'accroître le flux des échanges commerciaux et des investissements.

### *Article 2. Protéger et maintenir les emplois en Amérique du Nord*

Nous réaffirmons le droit des entreprises établies en Amérique du Nord d'y exercer leurs activités, incluant la possibilité de déplacer, sans subir de préjudice, leurs activités et leurs emplois au sein du territoire nord-américain.

### *Article 3. Lutter contre la délocalisation des emplois nord-américains*

Nous nous engageons à œuvrer en faveur du maintien des emplois au sein de l'Amérique du Nord et de lutter contre le phénomène de délocalisation d'activités d'entreprises vers d'autres régions du monde.

### *Article 4. Droit d'adopter des mesures de discrimination à l'égard des entreprises qui délocalisent*

Nous affirmons le droit des dirigeants politiques d'adopter des mesures sanctionnant les entreprises qui délocalisent leurs activités et qui, ce faisant, contribuent à la détérioration du tissu économique et industriel nord-américain.

### *Article 5. Droit d'adopter des mesures de sanction à l'égard des pays non respectueux de droits fondamentaux*

Nous affirmons le droit des dirigeants politiques d'adopter des mesures sanctionnant les pays qui ne respectent pas certains droits fondamentaux en matière de travail et en matière d'environnement, créant de surcroît une compétition déloyale envers l'Amérique du Nord.

## **CHAPITRE SECOND – MÉCANISMES DE LUTTE CONTRE LES DÉLOCALISATIONS**

### *Art.2.1: Conformité des législations nord-américaines*

- i) Chaque parlement d'Amérique du Nord verra à s'assurer que la réglementation, les législations et les politiques de son État se limitent à lutter, s'il y a lieu, contre le phénomène de délocalisation plutôt que contre le phénomène de déplacements d'entreprises.

ii) En conséquence de l'article 2.1, chaque Parlement d'Amérique du Nord verra à s'assurer que les manœuvres de déplacements d'entreprises ne sont plus assujetties aux différentes lois anti-délocalisation adoptées au sein des États d'Amérique du Nord.

*Article 2.2 : Interdiction de légiférer en regard des déplacements d'entreprises*

Il est dorénavant interdit pour un État d'Amérique du Nord d'adopter une loi, une politique ou une réglementation qui vise à sanctionner ou contraindre les déplacements d'activités ou d'emplois au sein de l'Amérique du Nord.

*Article 2.3 : Mesures de sanctions contre les délocalisations*

L'adoption par les États d'Amérique du Nord de mesures de sanction à l'endroit d'entreprises procédant à des délocalisations est encouragée, lorsque celles-ci se font au profit d'États non respectueux des droits fondamentaux dans le domaine du travail et de l'environnement.

*Articles 2.4 : Adoption de droits compensateurs*

L'imposition par les gouvernements d'Amérique du Nord de droits compensateurs sur l'importation de produits en provenance de pays non respectueux des droits fondamentaux dans le domaine du travail et de l'environnement est encouragée du fait que ces pratiques donnent lieu à des pratiques d'affaires inacceptables et déloyales.

## **CHAPITRE TROISIÈME – CRÉATION D'UN FONDS D'AIDE AUX EMPLOIS DÉLOCALISÉS (FAED)**

*Article 3.1 – Création d'un Fonds d'aide aux emplois délocalisés (FAED)*

Afin de palier aux impacts négatifs du phénomène des délocalisations, les parlementaires d'Amérique du Nord proposent de créer un Fonds d'aide aux emplois délocalisés (FAED).

*Article 3.2 – Objectif du FAED*

L'objectif du FAED est d'établir un programme d'aide inspiré du programme « NAFTA-TAA » et visant à soutenir la réinsertion professionnelle des travailleurs licenciés à la suite d'une délocalisation d'entreprise.

*Article 3.3 – Financement du FAED*

Les fonds récupérés par les droits compensateurs imposés sur l'importation de produits en provenance de pays non respectueux des droits fondamentaux dans le domaine du travail et de l'environnement seront transférés, à hauteur de 50%, dans le fonds d'aide aux emplois délocalisés (FAED). Les 50% additionnels seront utilisés à la convenance du pays qui l'aura récupéré.

*Article 3.4 - Gestion des fonds du FAED*

La Commission de Coopération nord-américaine dans le domaine du travail verra à gérer et à distribuer les fonds servant à financer le FAED, suivant les modalités de fonctionnement qui seront convenues entre les partenaires.

*Article 3.5 - Mise en application du FAED*

Chaque état sera responsable de la gestion des programmes du FAED sur son propre territoire, dans le respect des critères conjoints définis pour le programme.

*Art.3.5 – Durée de vie du FAED*

Le FAED sera mis sur pied pour une période d'au moins trois ans, avec possibilité de renouvellement.





## **DRAFT RESOLUTION ON THE WESTERN HEMISPHERE TRAVEL INITIATIVE**

Submitted by the Executive Committee of the Triumvirate  
May 2008

---

### **Explanatory Notes**

North American border management faces major challenges, particularly because Canada and the United States share the longest undefended border in the world, stretching more than 8,891 km, while the US-Mexico border extends over more than 3,141 km.

Following the terrorist attacks of September 11 in the United States, the American government decided to put measures in place to better protect the United States from terrorist threats.

In April 2005, the U.S. Department of Homeland Security and the State Department announced the Western Hemisphere Travel Initiative (WHTI). This law requires all travellers to and from the Americas (including Canada, Mexico, Central America and South America), the Caribbean and Bermuda to present a passport or other acceptable document or combination of documents when entering or re-entering the United States in order to confirm their identity.

Trade within NAFTA is estimated at about \$650 billion annually, and 75% of it is conducted by land routes. On average, 300 million people cross North American borders annually. It is also estimated that more than 30% of those without passports will be less likely to cross a border if a passport is required. This represents a potential decrease of 22 million travellers. Such a change could have a major economic impact on each of the North American countries. Losses of an estimated \$3.2 billion and \$2.2 billion could occur in Canada and the United States respectively. In addition, 95,000 jobs would be at risk in Mexico as a result of this measure.

The present draft resolution aims to foster a balance between security needs and economic development. It aims to propose amendments to the WHTI so that it meets high security requirements while not impeding trade by land and the flow of tourists between our three countries. In fact, North American parliamentarians believe that the increased security measures must result in the least harm possible to our economic partnership and our citizens.

## **DRAFT RESOLUTION ON THE WHTI**

### **CHAPTER I – Documents REQUIRED FOR CROSSING LAND AND SEA BORDERS**

#### Section I - A passport or a secure driver's licence for land travel

##### *Article 1. Documents accepted to facilitate border crossings by land*

In order to reduce the economic impact on North American partners, as well as travellers, and to limit as much as possible the reduction in the number of border crossings between North American countries, it is agreed that for land border crossings the following documents will be used at borders between Canada, the United States and Mexico:

- Valid passport
- Secure driver's licence
- PASS card (card for Americans wishing to cross the border)
- Smart card (intelligent cards capable of storing large amounts of data and communicating with a smart card reader with an integrated microcontroller).

##### *Article 2. Common and increased safety standards for secure drivers' licences.*

Physical biometrics is the safety standard recommended for enhancing the security level of drivers' licences. It is an automated method of recognizing a person based on physiological characteristics only. It includes fingerprints, hand geometry, facial appearance, and iris and retinal reading.

##### *Article 3. Method for using secure drivers' licences*

Secure drivers' licences will be recognized as valid documents for land border crossings in North America only where the following conditions are met:

- a) The licence is valid and issued by an officially recognized agency
- b) The bearer of the licence is a citizen of the North American country that issued the licence
- c) It is not an international driver's licence, which is not a substitute for a secure driver's licence
- d) The licence must be renewed at least once every two years

Anyone who does not meet all the conditions set out above must carry a passport or another valid document for land border crossings between North American countries.

##### *Article 4. Availability of secure drivers' licences*

Governments will have to see to offering the new secure drivers' licences at the lowest possible cost in order to limit any potential financial obstacle to acquiring them. It is recommended that secure drivers' licences be issued at the same locations as traditional drivers' licences.

##### *Article 5. Exemptions*

*Article 5.1 Exemptions for minors.*

With a view to facilitating family travel, children under 16 will be exempt from the need to present one of the documents referred to in Article 1. A document identifying the relationship with one of the accompanying adults will nevertheless have to be provided.

*Article 5.2 Exemptions for residents of Canada-U.S. border cities*

Recognizing the close ties that bind the citizens of cities along the Canada-U.S. border, parliamentarians recommend allowing Canadian citizens living in a city less than 15 kilometres from the Canada-U.S. border to use a traditional driver's licence (indicating the street address) in order to enter the neighbouring country, but only up to a limit of 40 km within the territory of the neighbouring country. Travellers needing to go beyond this limit must be in possession of the other necessary documents.

*Article 6. Privacy protection*

Personal data integrated into secure drivers' licences will remain confidential and will not be accessible to third-party countries. The governments concerned must agree on a common strategy, based essentially on expert advice from the private sector and on current government initiatives such as the Security and Prosperity Partnership (SPP), to formulate a set of uniform policies on privacy.

*Article 7. Funding for technology to recognize identification documents*

By 2010, border crossings must be equipped with technologies that can process secure identification documents. Considering that the technological requirements respond to requests from the United States government, financing of the technological infrastructure will be shared differently among the three countries. The United States will bear 50% of the cost of acquisition and installation of border technology infrastructure, while 50% will be borne equally by the governments of Canada and Mexico.

Each country may finance these costs from either public or private funds.

*Article 8. Report on implementation of the law for travel by land*

It is recommended that the new conditions imposed by the WHTI regarding documents required for travel by land be postponed until June 1, 2010.

## Section II – Documents required for travel by sea and air

*Article 1. Law regarding travel by sea*

North American parliamentarians recommend that the requirements imposed by the WHTI for travel by sea and air remain unchanged.

## **Chapter II – TRAVEL TO AND FROM THE UNITED STATES BY LAND**

## Section I- Enforcement of the new law

### *Article 1. Dissemination of information*

To ensure that the general public and travellers in particular know about and understand the new law, North America governments must make use of the various means of communication and advertising to guarantee wide distribution of information to their citizens regarding the terms of the law and the steps involved in obtaining the various documents required.

It is recommended that an information strategy regarding the new law be established with travel agencies and offices issuing drivers' licences in order to help people enter their destination countries.

## Section II- Creation of a temporary assistance fund for the tourism sector

### *Article 1. Creation of an assistance fund for the tourism sector*

Aware that the implementation of the WHTI will entail consequences particularly for the tourism sector, parliamentarians are recommending that a temporary assistance fund be created.

The purpose of the fund is to offset the negative effects suffered by people who derive their income from the tourism industry and see their activity being adversely affected:

1. Parties participating in the fund will be NAFTA member governments.
2. Fund money would be paid by the North American federal governments, up to \$15 million each.
3. For each country, the federal department responsible for the tourism sector will delegate a representative to ensure control over fund management.
4. This fund represents assistance to cover only a portion of the losses incurred.
5. The beneficiaries of this fund must clearly demonstrate that their business has decreased since the date the WHTI law was imposed, with the result that the profitability of their business has been significantly affected.
6. This fund covers only small and medium businesses whose activities are directly related to the tourism sector.
7. The fund becomes operational 9 months after the implementation of the WHTI law and its role ends after 2 years of operation.

## **Chapitre III – IMPLEMENTATION OF THE WHTI**

### Section I- Creation of a trilateral legislative commission to oversee the implementation of the WHTI

#### *Article 1. Creation of a trilateral legislative commission*

It is suggested that a trilateral legislative commission be created with the goal of overseeing:

- a) Maintenance and strengthening of border security
- b) Encouragement of trade
- c) Conducting of information campaigns for citizens
- d) Assistance in the implementation of new border technologies

- e) Coordination of information-sharing measures among member countries

*Article 2. Composition of the trilateral legislative commission*

1. The commission will be made up of legislators of Mexico, the United States and Canada.
2. Members of this commission will meet once a year, and in emergency situations.
3. The meetings will be held alternately in each member country.
4. The reports of these meetings will be kept secret in consideration of the security issues that will be discussed.
5. Administrative and travel costs will be borne by legislatures of the member countries.

Section II – Follow-up measure

Members of the trilateral legislative commission will submit a comprehensive report on the economic and social impact of the WHTI every two years. An initial report will be presented to the TRIUMVIRATE 2010.





## **DRAFT RESOLUTION ON CHAPTER XI**

Proposed by the Executive Committee of the Triumvirate  
May 2008

---

### **EXPLANATORY NOTES**

Upon reflect NAFTA has succeeded in some of these goals as FDI has rapidly increased as barriers to free trade have been eliminated. However, no policy can perfectly predict unanticipated consequences and occasionally policies must be reformed to reflect new problems that have been shed to light.

This resolution has as primary objective to reform Articles 1110 and 1114 of section A of Chapter XI in the North American Free Trade Agreement (NAFTA) with the goal of ensuring that NAFTA provides fair and competitive jurisdictions for direct foreign investment (DFI) that is not at odds with the public interest or the public's will.

This resolution has, as its second objective, the creation of an appeal system for claims filed under Chapter XI, section B, of the North American Free-Trade Agreement (NAFTA). The proposed ad hoc appellate body is an independent North-American judicial court, composed of judges from all three Parties to the NAFTA. It has jurisdiction to hear appeals from first instance Tribunals of the Chapter 11 investor-state disputes.

### **RESOLUTION ON CHAPTER XI OF NAFTA**

#### **Chapter I – Reform to Section A of Chapter XI**

##### **Section I- Reform to Article 1110**

###### *Article 1. PREAMBLE IN CHAPTER XI TO OUTLINE NEW PRINCIPLES*

To ensure that the new spirit of NAFTA is well understood by the tribunals reviewing each case, a new preamble will be inserted into Chapter XI to reflect the changes to Article 1110. Essentially, the new preamble will state that the reforms made to Article 1110 will ensure that Chapter XI will no longer be able to challenge areas of public policy that are deemed to be for the public good. The spirit of these changes reflects the principles that the rights of FDI should not

outweigh the public good. Chapter XI still allow for challenges to be made in cases that fall outside of these areas.

*Article 2. NEW EXEMPTIONS TO CHAPTER XI*

1. Under the law the term “measures tantamount” can not refer to any government standards when it is proven that the standard aims to ensure the protection of the public’s health or the environment.

2. Under the law the term “measures tantamount” can not refer to any government public enterprise when it is proven that the public enterprise aims to serve a function that is carried out for the public good in regards to health, education, environment and culture.

3. Government public enterprises that are not aimed to serve a function that is carried out for the public good are listed as followed:

- a) courier services
- b) alcohol
- c) lottery and casino

*Article 3. EXEMPTION CLAUSE REGARDING EMERGENCY POLICIES*

1. Governments now have the power to exempt policies from Chapter XI in cases of national importance for a period of up to 5 years.

2. In times of national emergency, crisis, or other dire circumstances governments can exempt public policy from Chapter XI during that period of time.

Section II - Reform to Article 1114

*Article 1. IMPLEMENTATION OF AN ENVIRONMENTAL COMPLIANCE POLICY*

1. Article 1114 of Chapter 11 is amended to require an environmental impact assessment for any investor from of one of the three NAFTA countries who plans to invest in another partner country. The investor is advised to follow any local laws that exist to regulate the environmental impact caused by new ventures. In addition to any such laws, investors should submit a detailed outline of all proposed investments to the local branch of government that is responsible for managing environmental affairs.

2. The environmental impact study should address all of the issues laid out by the local government in addition to the following:

- a) the investment’s potential impact on:
  - i) flora, fauna, and the sustainability of natural resources, with a focus on resources used in the operations of established businesses. While this provision does not seek to grant existing local businesses any special rights, it does stipulate that any detrimental impact on the resources used by others should be closely examined.
  - ii) the quality of life for the local population, with a focus on pollution and the quality of air and water in nearby ecosystems.

b) the measures that will be followed to ensure that compliance with environmental standards is maintained.

c) a detailed outline of any previous environmental offences committed by the investor and the measures taken to correct them.

d) the local state may have agreed to or signed international environmental treaties or agreements that have not yet been implemented. The effect of the ratification of any such treaties on the investment must be taken into account as part of the environmental impact study.

## **Chapter II – Reform to Section B of Chapter XI**

Section I- Creation of an ad hoc appellate body for decisions rendered by a first instance tribunal under NAFTA-Chapter XI investors-state claims.

### *Article 1. GENERAL CLAUSES*

1. The present statute creates **The NAFTA COURT OF APPEAL FOR INVESTOR-STATE CLAIMS**, a permanent independent court of appeals for suits filed under Chapter 11 of the NAFTA investor-state claims.
2. It is understood that in the body of the present statute, the **NAFTA COURT OF APPEAL FOR INVESTOR-STATE CLAIMS** will be referred to as “The COURT”.
3. It is understood that in the present statute, the Government of Canada, the Government of Mexico and the Government of the United-States of America will be referred to collectively as “the PARTIES”.

### *Article 2. COMPOSITION OF THE COURT*

1. The COURT will be composed of seven (7) judges:
  - a. Two judges appointed by the Government of Canada;
  - b. Two judges appointed by the Government of Mexico;
  - c. Two judges appointed by the Government of the United-States of America, and
  - d. One judge, appointed on an alternating basis by Canada, Mexico and the United-States.
2. Judges will be appointed for a term of five (5) years, during which they cannot be removed.
3. Judges may not be reappointed and their term cannot be extended.
4. Candidates must have practiced law for a minimum of 10 years in their respective judicial systems to be eligible for appointment.
5. Candidates must be citizens of their respective country, both at the time of appointment and throughout their term, to be eligible for appointment.
6. In case of serious illness or death, the government of the concerned party shall appoint a judge to complete the term. The prohibition indicated at Subsection 3 shall not apply to judges appointed in this fashion.
7. Other considerations for appointment are left to the discretion of the individual party.

### *Article 3. JUDICIAL POWERS OF THE COURT*

1. The COURT has jurisdiction to hear the appeal of any decision rendered in a suit filed under Chapter 11 of NAFTA, provided that:
  - a. A decision has been rendered by a first instance tribunal under the dispute rules set by the UNCITRAL or the ICSID;
  - b. The appeal is sought within one (1) year after the decision of the first instance tribunal was rendered, and
  - c. The Parties make public the decision of the first instance tribunal.
2. Decisions of the COURT are final and not subject to further appeal.

3. The PARTIES must abide by the COURT's decision and uphold its decisions by: reversing, amending, or implementing appropriate legislation to satisfy the claimant's demands.
4. The COURT's decisions shall serve as precedent and, where applicable, shall have a binding effect on first instance tribunals (stare decisis).
5. The COURT has no jurisdiction to hear appeals relating to claims filed under any other Chapter of the NAFTA or of any other treaty or commercial agreement.

*Article 4. ACCESS TO DOCUMENTS*

1. Decisions rendered by the COURT shall be made public by the PARTIES, except:
  - a. Information found to be of a confidential commercial nature,
  - b. Privileged information that cannot be divulged because of one of the PARTY's national or local statutes,
  - c. Information that cannot be divulged by a Party as per the rules of arbitration as applied in the first instance.

*Article 5. COSTS*

1. The COURT's administrative costs shall be incurred by the PARTIES equally.
2. The judges' salaries will be borne by each PARTY according to a scale to be determined by each party.
3. Claimants will bear additional costs that relate to each specific appeal if their appeal is dismissed.

*Article 6. LANGUAGE*

1. English, French and Spanish are the official languages of the COURT.
2. All decisions of the COURT shall be rendered in English, French and Spanish, all of which shall bear equal force of Law.
3. Simultaneous translation in all three official languages will be provided during all of the COURT's proceedings.



## 5. Awards and Distinctions

The various prizes and distinctions that will be awarded at the closing ceremony of the Triumvirate are listed below.

### *Legislators / Lobbyists*

1. Outstanding performance
2. Excellent performance
3. Remarkable performance
4. Best draft resolution or position paper
5. Best negotiator

### *Journalists*

6. Best newspaper article

### *Delegates*

7. The “Triumvirate” award, to the person who best evoked the values of dialogue, consensus building and cooperation that are being promoted by the simulation.

Awards and distinctions will be given by the General Secretariat, at the recommendation of members of the executive committee and the advisors of political commissions.

The award criteria are as follows:

- Relevance of the proposals put forward by the participants;
- Respect for the interests, customs and objectives of the State/organization represented;
- Respect for other delegates, regulations, code of conduct and policies;
- Excellent knowledge of the topics debated in political commissions;
- Excellent knowledge of the rules of parliamentary procedures;
- Openness to compromise and negotiation;
- Professionalism.

**Good luck to everyone!**



## **Appendix I - Election of Committee Chairperson and Secretary as well as Caucus Chairperson**

During the first caucus and commission sessions, delegates will have to elect a chairperson for each commission and caucus. The election of a secretary in the commissions will also take place during that first commission session. The elections should respect the following procedure:

1. At the beginning of the first session, each commission or caucus shall designate a scrutineer, someone who will examine votes during the election. This person's mandate will be to intervene if more than one candidate per position is nominated. The scrutineer cannot be a candidate;
2. Each candidate will have no more than three minutes to present their platform. The scrutineer's duty will be to make sure the allocated time is respected by each candidate.
3. After the speeches, the delegates will proceed to vote by secret ballot. This vote will be supervised by the scrutineer;
4. Each candidate can run for both positions in the commissions. Their intent should be clear during their speech. If a candidate wins both races (chairperson and secretary), that candidate must choose only one position. The runner-up will fill the remaining position.

## **Appendix II – Accommodation**

Participants will stay in the Marriott Springhill Suites Old Montreal from Sunday May 25th to Friday May 30th in the morning. The hotel is located at:






SpringHill Suites  
Montreal - Old Town  
445 St-Jean-Baptiste  
Montreal, H2Y 2Z7  
Quebec, Canada  
Tel: 1866 875-4333  
<http://www.springhillmontreal.com/>

Breakfast and lunch will be offered by NAFI, unless specified otherwise in the Official Program. Breakfast will be served between 7 and 8 every morning, and lunch will be served at the time indicated in the program. Please notify us of any food allergies or restrictions.

The rooms will accommodate four people per room. Each room will have wireless internet service free of charge for those who have a laptop with a wireless card. Those of you who wish to extend their stay must contact Celine Roche ([croche@fina-nafi.org](mailto:croche@fina-nafi.org)) as soon as possible. The cost for extra nights is of 180\$US for a quadruple occupancy room per night and 160\$ for a double occupancy room breakfast included, taxes not included.

## Appendix III - Participating Universities


<p>❖ Carleton University</p>	 <p><b>Carleton</b> UNIVERSITY Canada's Capital University</p>
<p>❖ Instituto Tecnológico y de Estudios Superiores de Monterrey-Campus Queretaro</p>	 <p><b>TECNOLÓGICO DE MONTERREY</b></p>
<p>❖ Centre d'Études et de Recherche Internationales de l'Université de Montréal (CÉRIUM)</p>	 <p>CENTRE D'ÉTUDES ET DE RECHERCHES INTERNATIONALES <b>CÉRIUM</b> Université de Montréal</p>
<p>❖ Escuela de Graduados en Administración Pública y Política Pública - Tecnológico de Monterrey – Campus Estado de México</p>	 <p>TECNOLÓGICO DE MONTERREY <b>EGAP</b> Escuela de Graduados en Administración Pública y Política Pública</p>
<p>❖ Universidad de Monterrey</p>	 <p>UNIVERSIDAD DE MONTERREY</p>
<p>❖ Universidad Iberoamericana, Ciudad de México</p>	 <p>UNIVERSIDAD IBEROAMERICANA CIUDAD DE MÉXICO</p>
<p>❖ North American Center for Transborder Studies - Arizona State University</p>	 <p><b>ASU</b> North American Center for Transborder Studies ARIZONA STATE UNIVERSITY</p>
<p>❖ University of Texas at El Paso</p>	 <p>THE UNIVERSITY OF TEXAS AT EL PASO</p>
<p>❖ University of Cincinnati</p>	 <p>UNIVERSITY OF <b>UC</b> Cincinnati</p>
<p>❖ Messiah College</p>	 <p><b>MESSIAH COLLEGE</b></p>

❖ College of Business & Public Policy, Anchorage, AK	
❖ University of Texas at Dallas	
❖ The Levin Institute-The State University of New York	The LEVIN Institute
❖ University of Alberta-Campus Saint-Jean	
❖ Brigham Young University	
❖ The College at Old Westbury- The State University of New York	

## Appendix IV – HOST AND SPONSORS

NAFI would like to thank our host and all partners and sponsors of the Triumvirate who, through their support, have made this project possible.

### ❖❖❖ THE 2008 TRIUMVIRATE HOST ❖❖❖

❖ Montreal City Hall	
----------------------	---

### ❖❖❖ PARTNERS ❖❖❖

❖ Government of Quebec - Minister of International Relations	
❖ The Association for Canadian Studies in the United States	
❖ Foreign Affairs Canada	

### ❖❖❖ COLLABORATORS ❖❖❖

**BOMBARDIER**

 **BLOC**  
QUÉBÉCOIS