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## U.S. record of agreements ignored is growing

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The FTA and the NAFTA agreements hinge on one crucial bet that is looking increasingly dubious today — that U.S. administrations would see it in their country's larger interest to respect the international agreements they entered into.

Alas, the U.S. record of agreements ignored, abrogated or violated in recent years is long and growing.

The latest but not the least such agreement is NAFTA, which provides the framework for \$445 billion U.S. in 2004 in bilateral business. America has refused to honour the NAFTA extraordinary panel decision that rejected a U.S. appeal of an earlier ruling that Washington failed to justify its imposition of duties on Canadian softwood.

Why does it matter that Canada respond and what should Canada do about it? Responding matters for two principal reasons.

First, Canadians need both a predictable and reasonably fair framework within which to conduct business with the U.S. and an international system that encourages co-operation over conflict. That means persuading Washington to play by the rules of bilateral agreements and of the international system, rather than just of U.S. domestic trade law.

If the Americans take the view that international treaties must yield to the U.S. constitution, and that others' practices are acceptable only to the extent they mirror American practices, there is nothing for others to negotiate except the terms of surrender.

Second, Canada needs to respond because appeasement, to use a word popular in American discourse these days, does not work.

Our response needs to be both strategic and tactical. Strategically, we have to persuade Americans that in the coming world order they are going to need both us and a fair and effective international system.

They will need us for resources, especially energy resources, in global markets that will only become increasingly tight, for lucrative goods and services opportunities, for technology, and for security against terrorists.

Further, they will benefit from an independent, effective Canadian foreign policy, both because of what its existence says about the U.S. to others and because Canada can make an indispensable contribution to American security.

More broadly, the Americans need a fair and effective international system because in China, India, Brazil and Russia lower-cost producers are emerging who will have market power and plenty of it.

Exactly the same arguments apply to security, where U.S. foreign policy flouts international law and seems self-destructive in the longer term. It is in our interest to speak these truths to power. The question is how to get Washington to the table to start that conversation?

- First, we should use the leverage we do have to get their attention. Self-interest and self-respect both demand that we react in some measured fashion.

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We could target certain exporters in the districts of vulnerable congressmen as the Europeans successfully did when the U.S. attacked European exports last year, although that will increase costs for Canadian consumers.

Or, more significantly for this administration, and better for Canadians overall, we could add a surcharge on our energy exports.

An energy, not just oil and gas surcharge, would diminish the disproportionate impact on Alberta by spreading the burden to other provinces, including B.C., Quebec and Ontario, that export both energy and lumber.

It could be differentially calculated by exporting province. The amount collected could be calibrated to match costs sustained by our softwood producers and the proceeds could be directed to them proportionately, offsetting our industry's losses and neutralizing the illegal, under international law, Byrd amendment, which directs anti-dumping and countervail revenues to complainant U.S. firms.

The energy market is so hot that significant impacts on Canadian exports seem unlikely. The objective is not to punish Americans but to give the U.S. lumber industry something to worry about — i.e., the U.S. energy industry, with its environmentally intrusive plans for Canada.

If the Americans expect our tar sands to be developed for their needs, a minimum quid pro quo is that they honour the agreements they make with us.

- Second, we should put politics back into trade. If the objective of a free-trade agreement for Canada was to take politics out of trade, it has not worked as well

as hoped.

Canadian FTA negotiators were well aware that Congress, inter alia, a cockpit for the promotion of local interests, would at times generate enormous pressures to protect one constituency or another and could not be relied upon to do the right thing. They themselves would decide what the right thing was. The administration would take a larger view.

We should gear up a serious lobbying effort in the U.S., starting in Washington. The president may not control Congress but he is uniquely significant in Washington. And the offence against NAFTA was committed by the administration, not Congress. The U.S. trade official who blew off the trade panel decision works in the executive office of the president.

Personal diplomacy needs to be part of our campaign. Our consulates around the U.S. should be led by people with policy smarts, political savvy and communications skills. Their primary mandates should be networking and political constituency-building and lobbying, rather than business promotion and market intelligence.

One thing we should definitely not do is voluntarily disarm, by taking the retaliation instrument off the table, as some industry and provincial representatives are advocating doing.

Nor should we brandish it to make ourselves feel better. Further, if we are going to speak truth to power we had better do so with one voice. This is a case for Team Canada if there ever were one.

Whatever we do, we should neither delude ourselves about who the little guy in this fight is nor scare ourselves into immobility. The border did not close after 9/11, and it will not close over a trade dispute.

Divorce is not possible in this relationship, though both sides might sometimes wish otherwise. Mutual respect is possible, but only if we insist on it.

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