

THE NAFTA SUPERHIGHWAY:

PAVING THE WAY TO A PROSPEROUS NORTH AMERICA AN IN-DEPTH ANALYSIS OF THE IMPACTS OF THE NAFTA SUPERHIGHWAY AND RECOMMENDATIONS FOR ITS IMPLEMENTATION

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INTRODUCTION

In 1996, Sears Kenmore washers and dryers spent an estimated twelve to fifteen days in transit from Columbus, Ohio to Mexico City, Mexico.¹ Even in the early periods of the North American Free Trade Agreement (NAFTA), trade jumped dramatically, causing long delays for trucks hauling cargo across the borders.² NAFTA has had a profound effect on North American trade, and “[a]bout 90 percent of U.S. trade by value with Canada and Mexico moves on land.”³ Our amount of trade by value nearly doubled in the first ten years of NAFTA.⁴ Incoming commercial traffic has risen steadily since 1998⁵ and will likely continue to rise. However, the United States has only had approximately a three and a half percent increase in total roadways since 1980.⁶

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1. Marsha Stopa, *Smart Highway Part of Pitch for NAFTA Route*, CRAIN’S DETROIT. BUS., May 6, 1996.

2. *Id.*

3. Public Briefing, *United States Department of Transportation, Surface Trade with Canada and Mexico Rose 12.0 Percent in November 2005 from November 2004* (Jan. 31, 2006), available at http://www.bts.gov/press_releases/2006/bts006_06/pdf/bts006_06.pdf (last visited Feb. 24, 2009) [hereinafter *Surface Trade*].

4. *Id.*

5. UNITED STATES DEPARTMENT OF TRANSPORTATION: FEDERAL HIGHWAY ADMINISTRATION, FREIGHT FACTS AND FIGURES 2006 INCOMING TRUCK CONTAINER CROSSINGS BY STATE U.S.-MEXICAN BORDER, available at http://ops.fhwa.dot.gov/freight/freight_analysis/nat_freight_stats/docs/06factsfigures/able2_9h.htm [hereinafter *Container Crossings*].

6. UNITED STATES DEPARTMENT OF TRANSPORTATION: FEDERAL HIGHWAY ADMINISTRATION, FREIGHT FACTS AND FIGURES 2006 MILES AND KILOMETERS OF INFRASTRUCTURE BY TRANSPORTATION MODE, available at http://ops.fhwa.dot.gov/freight/freight_analysis/nat_freight_stats/docs/06factsfigures/table3_1.htm (last visited Nov. 16, 2007)

The United States Department of Transportation has a bleak outlook for our current highway system's ability to cope with the increasing amounts of freight moving across the United States.⁷ Due to inefficient and insufficient highways, the United States experiences "significant truck hours of delay, totaling upwards of 243 million hours annually. At a delay cost of \$32.15 per hour, . . . the direct user cost of these bottlenecks is about \$7.8 billion per year."⁸ While this statistic is in relation to the United States as a whole, a large portion of it is entirely due to NAFTA transportation.⁹ The solution to this problem: "an intelligent-highway system that would track trucks electronically and eliminate all border inspections and delays, saving days of transit time from Canada to Mexico."¹⁰ Facilitating transportation of freight between the United States, Canada, and Mexico has the potential to dramatically improve the regional economy, reduce costs of doing business, reduce costs of goods for consumers, increase border security, and reduce illegal immigration.¹¹

This Note discusses the economic and political benefits of implementing an active, efficient highway system to interconnect North America. It explores how the non-enforcement of NAFTA provisions has proven detrimental to Mexico's economy, which has adversely affected the United States.¹² Continued resistance to the economic and physical integration of the United States, Mexico, and Canada will only prolong and exacerbate the troubles currently facing these three countries in the areas of immigration,¹³ inefficiency, and security.¹⁴ Part I of this Note examines the history of NAFTA and the relationships between the signatory nations.¹⁵ Part I also explores the inequality of treatment which plagued U.S.-Mexico relations prior to and during NAFTA.¹⁶ Next, Part I examines the current political and trade situation between the NAFTA member nations, with specific emphasis on the difficulties

[hereinafter Miles of Infrastructure].

7. REPORT, UNITED STATES DEPARTMENT OF TRANSPORTATION: FEDERAL HIGHWAY ADMINISTRATION, AN INITIAL ASSESSMENT OF FREIGHT BOTTLENECKS ON HIGHWAYS - 6.0, available at <http://www.fhwa.dot.gov/policy/otps/bottlenecks/chap1.htm> (last visited Feb., 24, 2009) [hereinafter *Freight Bottlenecks*]. "[T]he nation is entering the early stages of a capacity crisis." *Id.*

8. *Freight Bottlenecks*, *supra* note 7.

9. United States Department of Transportation: Federal Highway Administration, FHWA Freight Management and Operations – U.S.-Canada International Mobility and Trade Corridor (2002), http://ops.fhwa.dot.gov/freight/freight_news/us_canada/us_canada.htm [hereinafter U.S.-Canada Corridor] ("This growth in trade and commercial truck traffic has strained border crossing facilities and enforcement agencies. As a result, commercial vehicles are often delayed at the border, and long queues of trucks waiting to cross in either direction are a common sight. It has been estimated that \$40 million in operating costs are lost annually due to border crossing delays at just the Blaine, WA, border facility.").

10. Stopa, *supra* note 1.

11. See *infra* Part III.

12. See *infra* Part I.b; *infra* Part III.c.

13. See *infra* Part III.c.

14. See *infra* Part III.d.

15. See *infra* Part I.

16. See *id.*

engendered on the U.S.-Mexican border.¹⁷ Part II of this Note considers the various plans and proposals which take the name “NAFTA Superhighway” and explores how the project will be implemented and financed.¹⁸

Part III of this Note analyzes how the creation of an international superhighway system will benefit both the United States and Mexico, particularly in light of the hardships imposed upon Mexico by unequal participation economically with the United States.¹⁹ Part III also proposes implementation of an integrated highway system, not only to create the economic benefit of increased trade, but also to increase border security by streamlining U.S.-Mexican ports.²⁰ Such a system will also decrease illegal immigration by creating economic opportunities in Mexico, thereby reducing the incentive to immigrate to the United States.²¹

Part IV of this Note analyzes the political backlash in the United States against the NAFTA Superhighway project.²² Part IV dispels fears that a “North American Union” and a loss of United States sovereignty will result from the greater integration of transportation and economic trade with Mexico and Canada.²³ Further, Part IV examines the political and legal battles that currently rage across the United States over the implementation of an integrated highway system.²⁴ Finally, Part V of this Note sets out several proposals for the implementation of an integrated highway system designed to overcome the physical, financial, and political difficulties in harmonizing the United States with the Mexican economy.²⁵ Ultimately, such harmony will be vital for the United States to compete on a global level in the twenty-first century.

I. BACKGROUND OF NAFTA AND MEXICAN DISPARATE TREATMENT

A. NAFTA's History

“The negotiations for [NAFTA] started in Toronto in June 1992 [I]t was the first case of a developing country's accession to this type of agreement with developed states on a fully reciprocal basis.”²⁶ To the Mexican government NAFTA represented a chance to catapult itself onto the world stage as an economic power by linking its fate with that of the United States and

17. *See id.*

18. *See infra* Part II.

19. *See infra* Part III.

20. *See id.*

21. *See id.*; *infra* Part V.

22. *See infra* Part IV.

23. *See infra* Part IV.a.

24. *See infra* Part IV.b.

25. *See infra* Part V.

26. Demetrius Andreas Floudas & Luis Fernando Rojas, *Some Thoughts on NAFTA and Trade Integration in the American Continent*, INT'L PROBLEMS—SELECTED ARTICLES VOL. IV, Dec. 2000, available at http://www.diplomacy.bg.ac.yu/mpro_sa00_4.htm.

Canada.²⁷ "NAFTA took effect on January 1, 1994, one year after the formal completion of the European Single Market."²⁸ For Mexico, NAFTA represented vast potential:

On the one hand, NAFTA institutionalized the liberalization of the economy by clearly establishing the commercial strategy through which the country would definitely open itself to trade. It promoted foreign and domestic investment in a new business environment, which was characterized by greater certainty in the policy direction and the safety net of a binding economic link with the United States and Canada. On the other hand, NAFTA gave a valuable impulse to the manufacturing sector of the economy, which became an important growth engine through its exports.²⁹

Recognizing the economic potential of such an agreement, Mexico prepared itself for NAFTA through its responses to several economic crises, such as the collapse of its economy in 1982.³⁰ "These measures included a substantial devaluation of the peso, joining and accepting the discipline of the GATT [General Agreement on Tariffs and Trade] in 1986, unilaterally reducing import impediments in order to make nonoil exports more competitive, and seeking out rather than reluctantly tolerating foreign direct investment (FDI)."³¹ Once these steps had been taken, and NAFTA had been signed, "trade barriers were progressively eliminated: from an average tax on imports of 9.7 percent in 1990, to 3.7 percent in 1995, and 2.2 percent in 2003."³²

After NAFTA took effect, Mexico's economy underwent rapid changes; most notably it became synchronized with the U.S. economy, such that it experienced booms and recessions along with the United States.³³ NAFTA also started a very successful liberalization of international trade in Mexico.³⁴ As a result,

27. JUAN CARLOS MORENO-BRID, JUAN CARLOS RIVAS VALDIVIA & JESUS SANTAMARIA, U.N. ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN [CEPAL], STUDIES AND PERSPECTIVES SERIES, SUB-REGION OF MEXICO, MEXICO: ECONOMIC GROWTH EXPORTS AND INDUSTRIAL PERFORMANCE AFTER NAFTA 7(2005) [hereinafter UN: MEXICO AFTER NAFTA].

28. Floudas & Rojas, *supra* note 26.

29. Alejandro M. Werner, Rodrigo Barros, & Jose F. Ursua, *The Mexican Economy: Transformation and Challenges*, in CHANGING THE STRUCTURE OF MEXICO: POLITICAL, SOCIAL, AND ECONOMIC PROSPECTS 67, 77 (Laura Randall, ed., M.E. Sharpe 2d ed. 2006).

30. Sidney Weintraub, *Mexico's Foreign Economic Policy*, in CHANGING THE STRUCTURE OF MEXICO: POLITICAL, SOCIAL, AND ECONOMIC PROSPECTS 58, 59 (Laura Randall, ed., M.E. Sharpe 2d ed. 2006).

31. *Id.*

32. Werner, Barros, & Ursua, *supra* note 29, at 77.

33. *Id.* at 82-83.

34. *Id.* at 77.

Mexico became the eighth largest exporting economy in the world and its export sector evolved into the primary growth engine in the economy. Moreover, the liberalization also brought about a substantial increase of foreign direct investment flows directed toward the country, from levels of around 1 percent of GDP by 1980 to 2.6 percent in 1994 and more than 4 percent by 2001. Foreign direct investment complements domestic savings in the formation of infrastructure and implies a direct transfer of technology, which can in turn increase productivity.³⁵

B. *The Unfulfilled Promises of NAFTA*

Unfortunately, as the United States, Canada, and Mexico entered the twenty-first century, many of NAFTA's promises remained unfulfilled.³⁶ This has resulted in a sharp decrease in U. S. public opinion of NAFTA and in the prevailing U.S. opinion of its true effects, as well as its potential economic impacts.³⁷ Such opinions are not limited to the United States; Mexican public opinion is also divided on NAFTA's actual economic effects.³⁸ In fact, one in two Mexican citizens believes that NAFTA had a negative effect on Mexico's economy.³⁹ However, "[g]iven the phenomenal rise in Mexican exports to the United States, the diverse character of these exports, and the dramatic increase in annual inflows of FDI, one has to ask why this denigration of NAFTA has occurred."⁴⁰ In fact, "[i]n 2002, intra-NAFTA trade accounted for 45 percent of the total trade of the three countries"⁴¹

Notwithstanding the successes in the manufacturing and exporting industries,⁴² the NAFTA nations are facing serious hurdles because of the

35. *Id.*

36. For example, the United States has not lifted the ban on Mexican from American highways. Press Release, Advocates for Highway and Auto Safety, Mexican Border and DOT Pilot Program Chronology (Sept. 10, 2007) available at <http://www.saferoads.org/press/press2007/MexDomTrucksChronology091107.pdf> [hereinafter Mexican Truck Chronology]. In December of 1995, "President Clinton postpone[d] implementation of [a] NAFTA cross-border trucking provision based on safety and environmental concerns." *Id.* at 4. Additionally, Mexican unemployment rates initially decreased, but have fluctuated recently. Oscar F. Contreras, *Industrial Development and Technology Policy: The Case of the Maquiladoras*, in CHANGING THE STRUCTURE OF MEXICO: POLITICAL, SOCIAL, AND ECONOMIC PROSPECTS 267, 269 (Laura Randall, ed., M.E. Sharpe 2d ed. 2006).

37. See H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>.

38. Weintraub, *supra* note 30, at 60.

39. *Id.*

40. *Id.*

41. *Id.* at 59.

42. Contreras, *supra* note 36, at 269.

increasing crowding problems--both on the highways⁴³ and at border crossings,⁴⁴ and with increasing national security requirements,⁴⁵ political infighting,⁴⁶ and legal and illegal immigration.⁴⁷ In addition to the highway and border crossing problems discussed earlier,⁴⁸ the U.S. House of Representatives has expressed its opinion of the Bush Administration's policies toward Mexico and Canada with House Resolution 40 (HR 40).⁴⁹ HR 40 provides, "the sense of Congress that the United States should not engage in the construction of a North American Free Trade Agreement (NAFTA) Superhighway System or enter into a North American Union with Mexico and Canada."⁵⁰

Despite this, within the U.S. government, only the Bush Administration has been working to expand the nation's relationship with the other NAFTA nations.⁵¹ President Bush, Canadian Prime Minister Paul Martin and Mexican President Vicente Fox announced the establishment of the "Security and Prosperity Partnership of North America" in a March 23, 2005 joint statement.⁵² The Security and Prosperity Partnership (SPP) "is committed to reach the highest results to advance the security and well-being of our people."⁵³ However, President Bush's efforts have been resisted by Congress.⁵⁴ Likewise, Mexican President Vincente Fox has faced much opposition from his own Congress when attempting to solve problems related to trade between the nations.⁵⁵

Perhaps even more notably, especially to the American public, the problems facing NAFTA have become exacerbated by Mexican immigration to

43. *Freight Bottlenecks*, *supra* note 7.

44. Stopa, *supra* note 1.

45. See Security and Prosperity Partnership: Myths vs. Facts, http://www.spp.gov/myths_vs_facts.asp (last visited Feb. 24, 2009) [hereinafter SPP Myths vs. Facts].

46. See H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>: (Congress took the time to pass a resolution to express an opinion regarding the issue of the NAFTA Superhighway.); Weintraub, *supra* note 30, at 61 (Recent stagnation in Mexico results "mainly from the political inability of President Fox to reach legislative and structural agreements with a Congress dominated by opposition parties.").

47. Tamara M. Woroby, *North American Immigration: The Search for Positive-Sum Returns*, in *REQUIEM OR REVIVAL? THE PROMISE OF NORTH AMERICAN INTEGRATION* 247, 257-62 (Isabel Studer & Carol Wise, eds., 2007) (discussing the effects of Mexican-U.S. migration and possible solutions).

48. See *supra* Introduction.

49. H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>.

50. *Id.*

51. See SPP Myths vs. Facts, *supra* note 45.

52. Security and Prosperity Partnership of North America – Leaders' Statement: Security and Prosperity Partnership of North America Established, <http://www.spp-psp.gc.ca/eic/site/spp-psp.nsf/eng/00057.html> (last visited Feb. 11, 2009) [hereinafter SPP Leaders' Statement].

53. *Id.*

54. H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>.

55. Weintraub, *supra* note 30, at 61.

the United States, whether legal or illegal.⁵⁶ While NAFTA had a positive effect on Mexico's economy on a macroeconomic level,⁵⁷ the Mexican economy has not fully realized its growth potential.⁵⁸ For example, the wage gap between the United States and Mexico has become the largest disparity between any two contiguous countries.⁵⁹ Estimates place the average U.S. wage between four⁶⁰ and nine times the average Mexican wage.⁶¹ This wage gap is cited by many as the primary cause of the inflow of immigrants from Mexico into the United States,⁶² and it should be the primary consideration⁶³ when attempting to solve the problems that immigration places on both the American and Mexican economies.⁶⁴

Thus, as the transportation promises of NAFTA remain unfulfilled,⁶⁵ and problems begin to arise with the transportation system,⁶⁶ political squabbling,⁶⁷ and immigration,⁶⁸ a solution must be found. The NAFTA Superhighway shows great potential to solve the problems currently facing the NAFTA signatory nations.⁶⁹ Properly implemented, the NAFTA Superhighway has the

56. See Woroby, *supra* note 47, at 257-62.

57. Werner, Barros, & Ursua, *supra* note 29, at 77 ("The most important determinant of the structural transformation experienced by the Mexican economy during the last two decades was the liberalization of trade.")

58. See *supra* Part I.b.

59. Woroby, *supra* note 47, at 257.

60. *Id.*

61. Pia M. Orrenius, *Mexico-U.S. Migration: Economic Effects and Policy Impact*, in *CHANGING THE STRUCTURE OF MEXICO: POLITICAL, SOCIAL, AND ECONOMIC PROSPECTS* 454, 458 (Laura Randall, ed., M.E. Sharpe 2d ed. 2006).

62. See Woroby, *supra* note 47, at 257-62; Orrenius, *supra* note 61, at 458-60.

63. Woroby, *supra* note 47, at 262.

64. *Id.* at 257 (discussing the destructive effects out-migration has on the Mexican economy. It is believed that as much as ten percent of the Mexican workforce has emigrated to the United States, devastating many communities.). Orrenius, *supra* note 61, at 459 ("At very high rates of out-migration, communities lose their economic base along with their working-age populations, and can begin to decline or die out.")

65. NAFTA Trucking Access is Disputed by Teamsters and Sierra Club, CaliforniaGreenSolutions.com, available at <http://www.californiagreensolutions.com/cgi-bin/gt/tpl.h,content=893> (last visited March 4, 2009) ("NAFTA requires all roads in the United States, Mexico and Canada to be opened to carriers from all the three countries. Canadian trucking firms have full access to U.S. roads while Mexican trucks can only travel about 20 miles inside the country at certain border crossings like in San Diego and El Paso, Texas.") [hereinafter NAFTA Trucking Access].

66. See *Container Crossings*, *supra* note 5; *Miles of Infrastructure*, *supra* note 6; *Freight Bottlenecks*, *supra* note 7; and U.S.-Canada Corridor, *supra* note 9.

67. H.R. Con. Res. 40, 110th Cong. (2007), available at [http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40](http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40;); Weintraub, *supra* note 30, at 61.

68. See Woroby, *supra* note 47, at 257-62; Orrenius, *supra* note 61, at 458-60.

69. See About NASCO: The North American SuperCorridor Coalition Inc., available at <http://www.libertyparkusafd.org/lp/Hamilton/Economic%20Integration%5CNorth%20America%27s%20Super%20Corridor%20Coalition,%20Inc.htm> (last visited Feb. 24, 2009) [hereinafter About NASCO].

potential to create economic opportunities in all the NAFTA nations,⁷⁰ as well as to encourage foreign investment in Mexico by easing the access to Mexican markets.⁷¹ This would stimulate Mexico's economy⁷² and potentially alleviate the immigration problems facing the NAFTA nations.⁷³ Thus, this Note presents recommendations for the construction and operation of the NAFTA Superhighway, as well as recommendations for policymakers in the United States to solve some of the problems associated with its implementation.⁷⁴

II. THE NAFTA SUPERHIGHWAY

A. What does "NAFTA Superhighway" mean?

The single largest obstacle facing the NAFTA Superhighway is confusion about the meaning of the phrase. Compounding this problem, opponents of the project point to certain less attractive aspects of the plan, take them out of context, and use them to erode support. For example, Jerome Corsi, a prominent conservative writer and opponent of the NAFTA Superhighway, paints a dismal picture of a "huge NAFTA Super Highway, four football-fields-wide, through the heart of the U.S. along Interstate 35, from the Mexican border at Laredo, Tex., to the Canadian border north of Duluth, Minn."⁷⁵ This view employs fear tactics rather than facing the reality of the situation.

In actuality, there are plans to construct new highway systems to better facilitate trade and travel internationally in North America; however most of the NAFTA Superhighway project will consist of upgrading and extending existing transportation routes to handle the increased burdens of increased surface trade.⁷⁶ North America's SuperCorridor Coalition (NASCO), the primary

70. *See id.*

71. *See id.*

72. Rafael Tamayo-Flores, *NAFTA-Driven Changes in the Regional Pattern of Economic Growth in Mexico: Profile and Determinants*, in *CHANGING THE STRUCTURE OF MEXICO: POLITICAL, SOCIAL, AND ECONOMIC PROSPECTS* 119, 135-36 (Laura Randall, ed., M.E.Sharpe 2d ed. 2006).

73. Woroby, *supra* note 47, at 262.

74. *See infra* Part V.

75. Jerome Corsi, *Bush Administration Quietly Plans NAFTA Superhighway*, HUMANEVENTS, <http://www.humanevents.com/article.php?print=yes&id=15497> (last visited Feb. 24, 2009) [hereinafter *Quietly*].

76. I69Info.com: Project Overview, <http://www.i69info.com/overview.html> (last visited Feb. 24, 2009) [hereinafter *I69info Overview*]. This includes the additions to Interstate 69 which were the subjects of debate in Indiana recently. "Well over 100,000 individual Hoosiers have signed petitions opposing a new terrain route for I-69. Fourteen newspapers in Indiana have editorialized in opposition to the new terrain route and/or in support of the US41/I-70 alternative. NBC's Tom Brokaw spotlighted the new terrain route as a 'Fleecing of America.'" SouthernIN.com, *I-69 Update -The I-69 Issue: Thoughts on the Evansville to Indianapolis Highway*, http://www.southernin.com/Pages/archives/february_01/i69.html (last visited Feb. 24, 2009).

lobbying entity for the project, prefers not to use the term “Superhighway,” but rather “SuperCorridor” to emphasize that the scope of the project exceeds that of highways.⁷⁷ Citizens living in the primary lane of transport between the United States, Mexico, and Canada “have been referring to I-35 as the NAFTA Superhighway for many years. . . . There are no plans to build a new NAFTA Superhighway - it exists today as I-35.”⁷⁸ In its earliest stages of planning, the NAFTA Superhighway was objectively known as “a combination of streamlined governmental procedures and technological innovations along U.S. Interstate 35 and highway improvements in Mexico”⁷⁹ rather than any attempt to cut a swath through the heart of America and enable Mexican trucks to flood U.S. markets.⁸⁰

While there are plans to construct new interstate highways⁸¹ and railways⁸² as part of the greater NAFTA Superhighway project, the likelihood of a single, quarter-mile wide roadway cutting its way from Mexico to Canada is very low. The NAFTA Superhighway encompasses many projects, but ultimately for the purposes of this Note, the term will be used to refer to innovative technological highway projects used to increase the efficiency and amount of land-based trade between the United States, Mexico, and Canada.

1. What are the proposed routes of the NAFTA Superhighway?

The NAFTA Superhighway would encompass many projects and expand across several regions of the United States, Canada, and Mexico. One primary route would connect all the members of the North American Inland Port Network (NAIPN). NAIPN is a network of port facilities which would be best served by an integrated overland transport network.⁸³ The network extends from Central Mexico (including Leon and San Luis Potosí), through Texas and the Central United States (including Dallas, Kansas City, and Des Moines), to Winnipeg, Canada.⁸⁴ Additionally, parallel to the NAIPN route along Interstate

77. About NASCO, *supra* note 69. (“NASCO uses the term ‘SuperCorridor’ to demonstrate we are more than just a highway coalition. NASCO works to develop key relationships along the EXISTING corridors we represent to maximize economic development opportunities along the NASCO Corridor, as well as coordinate the development of technology integration projects, inland ports, environmental initiatives, university research, and the sharing of ‘best practices.’”).

78. *Id.*

79. Paul B. Carroll, ‘*Nafta Superhighway*’ Sought for Trade – A Mexican-U.S. Coalition Pushes Ambitious Plan to Speed Truck Cargoes, WALL ST. J., Sept. 19, 1995, at A19.

80. See *Quietly*, *supra* note 75.

81. I69info Overview, *supra* note 76 (“Approximately 1600 miles of freeway (including the 3 Texas branches) will be added to existing I-69 when it is complete.”).

82. See Jerome R. Corsi, *Deal Creates Path for NAFTA Railway*, WORLDNETDAILY.COM, Sept. 18, 2007, http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=57694.

83. NAIPN: North American Inland Ports Network – Introduction, <http://www.nascocorridor.com/naipn/pages/about.html> (last visited Feb. 24, 2009).

84. NAIPN: North American Inland Ports Network – Inland Ports Participants, <http://www.nascocorridor.com/naipn/pages/participants.html> (last visited Feb. 24, 2009).

35,⁸⁵ Interstate 69 in Texas is set to be expanded and improved by the Texas Department of Transportation (TxDOT) in order to connect Mexico to the Texas highway system.⁸⁶ Collectively, the improvement of road and rails along Interstates 35 and 69 in Texas is known as the Trans-Texas Corridor (TTC).⁸⁷

Other U.S. states have also actively sought to improve Interstates 35 and 69 to extend the NAFTA Superhighway, including Indiana, Kentucky, Tennessee, Mississippi, Louisiana, and Arkansas.⁸⁸ Most of these projects either improve existing interstates or upgrade existing highways to interstates; however, there are several locations where entirely new routes for Interstate 69 are being proposed.⁸⁹ The construction of highways along both new and existing routes requires a large amount of planning and political and legal efforts.⁹⁰ In addition to the direct costs of constructing a highway, states must select routes,⁹¹ prepare environmental impact statements, and acquire land from private owners, all before construction can begin.⁹² In some cases, state authorities do not expect construction to be completed for nearly twenty-five or thirty years after the planning stages have begun.⁹³ Ultimately, however, the general routes (Interstates 35 and 69) have already been selected as the most beneficial to all three member nations.⁹⁴

B. What makes the NAFTA Superhighway "Super"?

Ideally, there will be many differences between the NAFTA Superhighway route and the present interstates and railroads that criss-cross the United States, Canada, and Mexico. First and foremost, the NAFTA Superhighway is designed with international trade in mind,⁹⁵ rather than as a

[hereinafter NAPIN Participants].

85. NAIPN: North American Inland Ports Network –Infrastructure Resources, http://www.nascocorridor.com/naipn/pages/alliance_infra.html (last visited Feb. 24, 2009).

86. Keep Texas Moving: Trans-Texas Corridor Frequently Asked Questions, http://www.keeptexasmoving.com/index.php/ttc_faq (last visited Feb. 11, 2009) [hereinafter TTC FAQ].

87. *Id.*

88. I69Info.com: State of the Interstate, <http://www.i69info.com/state.html> (last visited Nov. 16, 2007) [hereinafter *State of the Interstate*].

89. *Id.*

90. I69Info.com: Evansville-Indianapolis, <http://www.i69info.com/eva-ind.html> (last visited Feb. 19, 2008) (showing that often the route selection becomes a matter of debate for years.).

91. *Id.*

92. DEP'T OF COMMUNICATIONS, IND. DEP'T OF TRANSP., INTERSTATE 69 EVANSVILLE TO INDIANAPOLIS TIER 2 STUDIES: FREQUENTLY ASKED QUESTIONS (2007), http://www.i69indyevn/PDF/FAQ_2007.pdf [hereinafter I69 FAQ].

93. *State of the Interstate*, *supra* note 88.

94. I69 FAQ, *supra* note 92 ("As designated by Congress, the purpose of the National I-69 project is not simply to link two locations on the United States' border (Laredo, Texas and Port Huron, Michigan). Rather, the National I-69 project links major commercial and population centers in eight states with one another, as well as with trading partners in Canada and Mexico.").

95. *Id.*

means of national security.⁹⁶ Several methods will likely be employed to make the routes connecting the three countries into a super conduit of trade and transportation.⁹⁷ Mostly, these methods involve using technology to enable goods to be loaded, transported, cleared across borders, and delivered more quickly and efficiently.⁹⁸ Even one of the project's biggest opponents, Jerome Corsi, admits that the NAFTA Superhighway "will be the nation's most modern highway. . . ."⁹⁹

In order to properly use an international highway system for the transportation of goods, several obstacles must be overcome, primarily including safety and security. Those implementing the NAFTA Superhighway projects intend to overcome these obstacles with sheer technological prowess.¹⁰⁰

The first step would be to secure any goods traveling internationally at inland ports, rather than at the borders.¹⁰¹ For example, "[a]t these key points, customs inspectors from Canada, Mexico, and the United States simultaneously would clear cargo, seal it and equip it with an electronic monitor."¹⁰² The sealed containers would allow quick clearance at customs stations¹⁰³ or at the borders, "as long as the information in their electronic monitors is consistent and the truck hasn't been unsealed."¹⁰⁴ Additionally, "[a] 'smart card' containing a computer chip . . . would then probably be put inside the trucks' windshields. . . . Such a card could also be used to automate the payment of fees or weight penalties owed to U.S. states traversed en route."¹⁰⁵ NAIPN is an organization comprised of the type of inland ports which would use this system of loading and inspection.¹⁰⁶ In the United States, the Kansas City Smart Port is already preparing to enter this new era of transportation technology.¹⁰⁷

Secondly, to address concerns regarding road usage and the difficulty of tracking international trucking, "fiber-optic cable . . . would be buried in the existing freeway right of way [and] would be equipped with scanners every three miles that would relay information to customs officials in all three

96. Stopa, *supra* note 1 ("Virtually all U.S. roadways run east-west and were built to move the military – not trade or commerce – from coast to coast.")

97. See Stopa, *supra* note 1; Carroll *supra* note 79; *Quietly*, *supra* note 75.

98. Stopa, *supra* note 1.

99. *Quietly*, *supra* note 75.

100. See Stopa, *supra* note 1.

101. *Id.*

102. *Id.*

103. Carroll, *supra* note 79.

104. Stopa, *supra* note 1.

105. Carroll, *supra* note 79.

106. NAIPN: North American Inland Ports Network – NAIPN Introduction, <http://www.nascocorridor.com/naipn/pages/about.html> (last visited Feb. 11, 2009).

107. The Kansas City Smartport: About Smartport – America's Inland Port Solution, http://www.kcsmartport.com/sec_about/about.htm (last visited Feb. 11, 2009). "SmartPort has two main focuses in its mission: 1. To grow the Kansas City area's transportation industry by attracting businesses with significant transportation and logistics elements; and 2. To make it cheaper, faster, more efficient, and secure for companies to move goods into, from, and through the Kansas City area."

countries, allowing border-crossing points to anticipate heavy traffic.”¹⁰⁸ This cable could also be used in conjunction with the computer chips implanted in the trucks to continuously track the whereabouts and exact routes traveled by trucks to ensure proper paths taken and fees paid.¹⁰⁹

Just as the NAFTA Superhighway’s roadways are years from completion, such a highly-integrated, and highly-technical system will probably not see widespread use in the immediate future. However, several projects designed to test the viability and utility of such systems are already in place, notably in the New York and New Jersey areas,¹¹⁰ as well as in Washington State.¹¹¹ While smaller in scope, the projects initiated between Washington State and Canada are virtually identical to the global proposals advocated by this Note and are currently being field-tested in those areas.¹¹² Ultimately, a highly integrated superhighway system will integrate shipping between Canada, the United States, and Mexico with sophisticated tracking and inspection methods designed to reduce or eliminate wait times at the border.¹¹³ With the implementation of such a highway system, all three nations stand to benefit from reduced costs in terms of both time and money, as well as increased amounts of trade.¹¹⁴

C. *Who’s paying for all of this?*

With the large scale scope of the NAFTA Superhighway, it is not easy to answer the questions of funding. The breadth of the project (at least sixteen states and provinces across three countries)¹¹⁵ complicates the question of

108. Stopa, *supra* note 1; see Christopher Hayes, *The NAFTA Superhighway*, THE NATION, Aug. 27, 2007, available at <http://www.thenation.com/doc/20070827/hayes>.

109. Carroll, *supra* note 79.

110. FHWA Freight Management and Operations – Freight Information Real-time System for Transport (FIRST), http://ops.fhwa.dot.gov/freight/freight_news/first/first.htm (last visited Feb. 24, 2009). “[T]he FIRST Demonstration Project was funded and developed, in part, to provide unique solutions to freight transportation problems. . . . Designed by the intermodal freight industry, in cooperation with public sector partners, FIRST uses the Internet as a platform to data in a variety of formats to facilitate the safe, efficient, secure, and seamless movement of freight”

111. U.S.-Canada Corridor, *supra* note 9. “[P]ublic and private stakeholders in Washington State and British Columbia established the International Mobility and Trade Corridor (IMTC) partnership.” *Id.*

112. *Id.*

113. The North American SuperCorridor Coalition Inc.: Logistics and Supply Chain Challenges, <http://www.nascocorridor.com/commondetail.asp?id=2169> (last visited Feb. 24, 2009) [hereinafter NASCO Logistics]. “NASCO received \$1.8 million in Congressional funding through the United States Department of Transportation (USDOT) for the development of a technology and cargo tracking . . . project. . . . NASCO believes . . . the deployment of a modern information system . . . will cut costs, improve efficiencies, reduce trade-related congestion, and enhance security of cross-border and corridor information, trade and traffic.” *Id.*

114. Stopa, *supra* note 1.

115. See NAIPN Participants, *supra* note 84.

funding, even if the project had no opposition. In the United States and Canada, the nature of highway construction and technological innovation requires funding from multiple sources.¹¹⁶ Primarily, these sources can be divided into three groups: federal government appropriations; state government plans and expenditures; and private investment.¹¹⁷ In Mexico, the government is weaker economically, and reliance upon foreign and private investing will likely become the primary engine to fund the construction and implementation of their portion of the NAFTA Superhighway.¹¹⁸ Each of these sources, federal, local, and private, will have a significant impact on the implementation of the NAFTA Superhighway project.

First, like any other highway project, the United States government lends assistance in the form of federal appropriations for the construction and maintenance of interstates and United States highways.¹¹⁹ Additionally, Congress has the authority to authorize expenditures for highway programs and has done so since 1987.¹²⁰ The current appropriation is known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).¹²¹ Most notably, these appropriations have recently added provisions focused on aiding the construction of the NAFTA Superhighway.¹²² Specifically, SAFETEA-LU provides for a National Corridor Planning and Development Program (NCPDP) and a Coordinated Border Infrastructure Program (CBIP).¹²³ The NCPDP provides “funding for planning, project development, construction and operation of projects that serve border regions near Mexico and Canada and high priority corridors throughout the United

116. See TONIA N. RAMIREZ, TEX. DEPT. OF TRANSP., *THE UNRELIABILITY OF FEDERAL FINANCING* 4 (2006), available at ftp://ftp.dot.state.tx.us/pub/txdot-info/library/reports/gov/federal_financing.pdf.

117. See generally *id.*

118. INDEPENDENT TASK FORCE OF COUNCIL ON FOREIGN RELATIONS, *BUILDING A NORTH AMERICAN COMMUNITY* 12 (2005), available at http://www.cfr.org/content/publications/attachments/NorthAmerica_TF_final.pdf [hereinafter INDEPENDENT TASK FORCE REPORT]. NAFTA was designed to increase Mexico’s economic power, bringing it closer to parity with the United States and Canada. However, the results have not been as hoped. “[T]he World Bank estimated in 2000 that \$20 billion per year for a decade is needed for essential infrastructure and educational projects in Mexico.” *Id.*

119. See 23 U.S.C. § 601 *et seq.*

120. Congress has passed and updated several statutes for transportation funding. Generally they have sunset provisions of a few years, and a replacement enacted. They are: The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURRA), Pub. L. No. 100-17, 101 Stat. 132, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. No. 102-240, 105 Stat. 1914, the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. No. 105-178, 112 Stat. 107; and the current version, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, 119 Stat. 1144 (codified in scattered sections of 16, 18, 21, 23, 26, 42 and 49 U.S.C.).

121. SAFETEA-LU, Pub. L. No. 109-59, 119 Stat. 1144 (codified in scattered sections of 16, 18, 21, 23, 26, 42 and 49 U.S.C.).

122. See *Id.* at §§ 1118, 1302.

123. *Id.* at § 1118.

States.”¹²⁴ The CBIP provides for a coordinated border infrastructure program under which the Secretary shall distribute funds to Border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.¹²⁵ These provisions have been included in part due to lobbying by advocates of the NAFTA Superhighway project, most notably NASCO.¹²⁶

However, it is difficult to acquire federal funding for NAFTA Superhighway projects. Except for difficulties due to ancillary political conflicts that tend to manipulate highway funding allocation,¹²⁷ states arguably need only apply for funding and meet the applicable criteria for their highway projects to be granted federal aid.¹²⁸ The topic of political divisiveness and its effects upon the project will be discussed in more detail in Part IV of this Note.¹²⁹ Nevertheless, there is a growing view that even this method of acquiring funds is both insufficient to support the growing need for highway projects and difficult to accomplish.¹³⁰ Specifically, Texas, which has the largest intrastate portion of the NAFTA Superhighway to construct¹³¹ and handles more land based trade than any other state,¹³² is not optimistic about federal funding.¹³³ According to a report prepared for the TxDOT, “[t]he federal-aid highway and transit programs are becoming more and more unreliable as a means of significant funding to meet [Texas’s] growing transportation and mobility means.”¹³⁴ Further, the report concluded, “[t]he

124. CORBOR Program – Planning - FHWA, <http://www.fhwa.dot.gov/planning/corbor/> (last visited June 29, 2009).

125. Coordinated Border Infrastructure Program – Planning – FHWA, <http://www.fhwa.dot.gov/planning/cbipfacts.htm> (last visited June 29, 2009).

126. See *Generally* NASCO Logistics, *supra* note 113. NASCO successfully lobbied for funding for the Interstate 35 corridor to be added to ISTEA, as well as adding the two categories (NCPDP and CBIP) to TEA-21. Because of those efforts, NCPDP and CBIP were reauthorized by SAFETEA-LU. SAFETEA-LU § 1144 *et seq.*

127. Many lobbyist groups against the NAFTA Superhighway use their influence to place conditions on spending which affect the way appropriations for NAFTA programs are spent. See Welcome to the Truck Safety Coalition: NAFTA / Mexican Trucks, http://www.trucksafety.org/NAFTA_and_Mexican_Trucks.php (last visited Jan. 30, 2009) (lobbyist group successfully lobbied for a prohibition of federal appropriations for a NAFTA pilot program to allow Mexican trucks to operate in the United States).

128. See RAMIREZ, *supra* note 116, at 4.

129. See *infra* Part IV.

130. See *e.g.* RAMIREZ, *supra* note 116, at 4.

131. See NAIPN: North American Inland Ports Network – Inland Ports Participants, <http://www.nascocorridor.com/naipn/pages/participants.html> (last visited Jan. 30, 2009) (three of the seven inland ports in the network spanning across the three NAFTA countries are based in Texas).

132. Texas handled 67.8 percent of the total commercial traffic entering the United States from Mexico in 2005. FED. MOTOR CARRIER SAFETY ADMIN., NAFTA SAFETY STATS, *available at* <http://ai.fmcsa.dot.gov/international/border.asp?dvar=2&cvar=truck&sy=2005&redirect=Crossings.asp>.

133. See RAMIREZ, *supra* note 116, at 17.

134. *Id.*

Federal Highway Trust Fund is precipitously close to reaching insolvency. Congress continues to earmark those limited federal transportation funds for projects that often conflict with state and local priorities."¹³⁵ Ultimately, this has forced Texas and other states to develop innovative strategies to compensate for lack of federal funding.¹³⁶

The next major source for funding of a NAFTA Superhighway project comes from the States or local governments themselves. Texas, as the largest single body facing the challenges of the NAFTA Superhighway, has endeavored to lead the way in creating new ways to ensure that transportation construction gets the funding it needs with as little an impact on its citizens as possible.¹³⁷ To accomplish this daunting task, TxDOT has launched a campaign called "Keep Texas Moving," which is designed both to generate and implement these ideas and to keep the public informed of the project.¹³⁸ TxDOT is on its way to implementing four ways to finance the Trans-Texas Corridor: Comprehensive Development Agreements (CDA); Regional Mobility Authorities (RMA); pass-through financing; and tolling.¹³⁹

CDAs "are a recent creative solution to the planning and completion of major public works in which [the government] may contract 'with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand' transportation projects such as the Trans-Texas Corridor."¹⁴⁰ CDAs are used to share risks and costs between a government and a private entity, thereby making the project more attractive to both and facilitating its quick and efficient implementation.¹⁴¹ They also reduce costs by simplifying and shortening the highway construction process.¹⁴²

RMAs work in much the same way as CDAs, but on a purely governmental level; typically they are formed between large metropolitan areas or bordering counties, rather than a government entity and a private consortium.¹⁴³ "An RMA can finance, design, construct, operate, maintain, acquire, expand or extend a project. By taking control of local transportation needs, an RMA can help a community loosen gridlock usually sooner than the state can."¹⁴⁴

The third concept, pass-through financing, is an innovative solution for

135. *Id.*

136. *Id.* at 4.

137. See TTC FAQ, *supra* note 86.

138. *Id.*

139. Keep Texas Moving: Project Funding Options, http://www.keeptexasmoving.com/index.php/project_funding_options (last visited Jan. 30, 2009) [hereinafter Project Funding Options].

140. Jason C. Petty, *The Trans-Texas Corridor Plan: Will "Best Value" Highway Contract Procurement under Comprehensive Development Agreements Leave the Lowest Competitive Bidder in the Dust?*, 39 ST. MARY'S L.J. 371, 381 (2007).

141. Project Funding Options, *supra* note 139.

142. Petty, *supra* note 140, at 391.

143. See Project Funding Options, *supra* note 139.

144. *Id.*

cost sharing between local and state authorities which “allow[s] local communities to fund upfront costs for building a state highway project. The state then partially reimburses the community over time by paying a fee for each vehicle that drives on the new highway.”¹⁴⁵ The fourth solution, the toll road, is probably the most familiar to drivers, and allows the road to be built on the promise of revenue to be generated by the road’s users after construction is complete.¹⁴⁶ Once the project is paid for, “the community can then choose to lower the toll and put the money toward maintaining the highway, or it can leave the toll the same and use the revenue for maintenance and construction of other needed transportation projects in the area.”¹⁴⁷ These four funding options, if they prove successful in Texas, will likely be adopted in other states as they attempt to solve the same construction problems.

In addition to federal and local government funding, the third major source of funding for projects is private financing. Private financing is an attractive alternative to state or federal money because it does not depend upon political earmarking or pork-barrel spending.¹⁴⁸ The CDAs of TxDOT’s campaign also rely upon private funding.¹⁴⁹ Due to Mexico’s comparatively low economic standing in relation to the United States and Canada, private investment stands the best chance at integrating and upgrading Mexico’s infrastructure.¹⁵⁰ Locally, private funding can be used to dramatically increase the speed of projects which might otherwise be mired in government delay. In Indiana in 2005, amid struggles with construction costs and delays of Interstate 69, “the Governor directed [the Indiana Department of Transportation] to pursue all steps necessary to accelerate the final alignment, identify state legislation necessary to create public-private partnerships and to research partnering options with companies experienced in financing, building and operating toll facilities.”¹⁵¹ Many projects benefit from private funding, because of the uncertain financial nature of these projects. Private entities, unlike public entities, have the courage and ability to take risks with financing and hope these risks pay off later. Government entities, which are responsible to their constituents, are far less likely to invest in a project with an uncertain outlook. Fortunately for the NAFTA Superhighway, many of its projects are vastly lucrative, and such projects can attract much private investment in hopes

145. *Id.*

146. *See id.*

147. *Id.*

148. *See* Press Release, State of Alaska, Governor, Gravina Access Project Redirected, (Sept. 21, 2007), available at <http://www.gov.state.ak.us/archive.php?id=623&type=1> (last visited Jan. 30, 2009) (discussing the debate over an earmark of over \$300 Million for a bridge to nowhere to connect an island in Alaska with a population of 50 to a nearby town).

149. Project Funding Options, *supra* note 139.

150. INDEPENDENT TASK FORCE REPORT, *supra* note 118, at 14.

151. Toll Road News, Indiana TR to Double Tolls & Privatize, Do I69 as Pike – Gov. Daniels, <http://www.tollroadsnews.com/node/1270> (last visited Feb. 11, 2009).

of increasing efficiency and profits in the future.¹⁵²

Funding for a project as large and as important as the NAFTA Superhighway will not be acquire. The national governments, state and local governments, and private sector businesses need to work together to ensure the implementation of what could be the most important economic endeavor that North America has ever undertaken. Without a NAFTA Superhighway to connect the three member countries, NAFTA's effectiveness is severely curtailed. Constructing the means to effectively and productively move goods across the nations' borders is essential to foster the powerful regional economy that will be necessary to meet the challenges of the twenty-first century.

III. ANALYSIS OF THE ECONOMIC IMPACTS OF THE NAFTA SUPERHIGHWAY

A. *International and Economic Benefits of the NAFTA Superhighway*

Construction of the NAFTA Superhighway would bring with it several direct economic benefits for the NAFTA countries, particularly between the United States and Mexico. As NASCO states, "the U.S. economy increasingly runs on trade and our trade runs on transportation. . . . Future economic growth and job creation in the U.S. require a constant effort to enhance our business climate, environment and transportation infrastructure to sustain our world-class leadership in world trade."¹⁵³ As the primary group supporting the Superhighway project, "NASCO's aim is to continuously, diligently upgrade the efficiency and security of our transportation systems to sharply increase the efficiency of our transportation infrastructure on the Corridor to drive down the cost of doing business and enhance our ability to do international trade in the central U.S."¹⁵⁴

The NAFTA Superhighway would enable the United States, Mexico, and Canada to compete globally by creating economic benefits in North America in several ways, such as decreasing the time required to ship goods across North America.¹⁵⁵ Specifically, the average shipping time between Chicago and Mexico City could be reduced by as much as forty percent through the use of advanced customs procedures, highway improvements, and modern vehicle tracking devices.¹⁵⁶ A more conservative estimate states that the NAFTA Superhighway system would "save a minimum of two days' time on goods

152. See, e.g. U.S.-Canada Corridor, *supra* note 9 (Canadian-U.S. program jointly funded by private and public companies hoping to implement technology that would be widely accepted by the Customs agencies of both countries, reducing operating costs and increasing productivity).

153. About NASCO, *supra* note 69.

154. *Id.*

155. See Carroll, *supra* note 79.

156. *Id.*

traveling between Mexico City and Toronto," which takes as many as 15 days.¹⁵⁷ The magnitude of the economic impact that the NAFTA Superhighway would have on the United States, Mexico, and Canada is made readily apparent by the fact that nearly one trillion dollars a year is exchanged annually between the NAFTA nations.¹⁵⁸ Furthermore, "[a]ny reduction of more than 2 percent to 4 percent [of transportation time] will have an effect on production costs," thus affecting final consumer pricing.¹⁵⁹

Moreover, decreased waiting times and more efficient transportation provide many other benefits that do not make themselves apparent at first glance but still can have major impacts on economic performance of NAFTA transportation.¹⁶⁰ For example, according to the Federal Highway Administration (FHWA), "[p]roductivity benefits cross functional lines, affecting empty-miles, maintenance, and indirectly even driver turnover."¹⁶¹ In field tests, annual savings due to more efficient use of technology ranged from \$7,866 to \$15,222 per tractor.¹⁶² Many other benefits inure to trucking companies in the form of "reduce[d] non-productive waiting time, emissions, and wasted fuel during idling."¹⁶³

Additionally, the NAFTA Superhighway brings with it multiple investment opportunities to corporations, both in its construction¹⁶⁴ and by access to new markets.¹⁶⁵ According to NASCO, "[f]or every [dollar] invested in the NASCO Corridor, \$5.70 is returned in economic benefits,"¹⁶⁶ and for every billion dollars spent on the NAFTA Superhighway, 47,500 jobs are created.¹⁶⁷ Once investment begins in new markets,¹⁶⁸ transportation and production costs will decrease,¹⁶⁹ employment levels will increase,¹⁷⁰ and the economic impacts of the NAFTA Superhighway will be readily apparent to virtually every citizen of the NAFTA nations through reduced costs of goods¹⁷¹ and more positive economic performances.¹⁷²

157. Stopa, *supra* note 1.

158. About NASCO, *supra* note 69.

159. Stopa, *supra* note 1.

160. MICHAEL WOLFE & KENNETH TROUP, U.S. DEP'T OF TRANSP., THE FREIGHT TECHNOLOGY STORY: INTELLIGENT FREIGHT TECHNOLOGIES AND THEIR BENEFITS (2005), available at http://ops.fhwa.dot.gov/freight/intermodal/freight_tech_story/freight_tech_story.htm [hereinafter FREIGHT TECHNOLOGY BENEFITS].

161. *Id.*

162. *Id.*

163. *Id.*

164. Stopa, *supra* note 1 ("In addition, the privately built system would carry digital-information transmission lines . . . [which] private companies 'will be lining up' to bid.")

165. See Tamayo-Flores, *supra* note 72, at 135-36.

166. About NASCO, *supra* note 69.

167. *Id.*

168. See Tamayo-Flores, *supra* note 72, at 135-36.

169. Stopa, *supra* note 1.

170. See About NASCO, *supra* note 69.

171. See Stopa, *supra* note 1.

172. See Tamayo-Flores, *supra* note 72, at 135-36.

B. Consumer and Other Benefits of the NAFTA Superhighway

Consumers and citizens of the NAFTA nations will reap many other benefits from the implementation of the NAFTA Superhighway in a variety of different areas. According to the FHWA, in 2001 Americans alone “spent over \$313 billion on goods and services that were transported over the Nation’s highway system. Transportation accounts for a share of the final price of the product, ranging from 1 percent to 14 percent, depending on the commodity and distance moved.”¹⁷³ The FHWA has determined that congestion on national and international highways has a serious impact on the economy, and consequently affects prices for consumer goods.¹⁷⁴ Hence, implementation of a highway system to reduce costs of transportation both nationally and internationally would result in savings to consumers, as well as increased availability of goods.¹⁷⁵

The construction of the physical roads necessary to implement the NAFTA Superhighway would have additional benefits to non-commercial users of roads. Specifically, with respect to one part of the project (Interstate 69) many drivers would experience shorter, safer commutes across the country.¹⁷⁶ Currently, many parts of the country do not have readily available interstate access.¹⁷⁷ The construction of the proposed routes of Interstate 69 “would cut the corner on these circuitous routes and reduce travel distances and times substantially; it would also divert many medium-distance travelers from the overloaded airlines.”¹⁷⁸ While this might increase the actual traffic flow along the interstate routes, “the total number of accidents is likely to decrease due to the better safety features of Interstate highways and better separation of local and long-distance travelers.”¹⁷⁹

Additionally, the NAFTA Superhighway would have significant positive effects on national security. On a typical day in 2008, U.S. Customs and Border Protection (CBP), the United States agency responsible for overseeing the entry of people and goods into the United States, processed nearly 1.1

173. RHONDA YOUNG, ET AL., WYOMING FREIGHT MOVEMENT AND WIND VULNERABILITY 2 (2005), available at <http://www.mountain-plains.org/pubs/pdf/MPC05-170.pdf>.

174. FEDERAL HIGHWAY ADMINISTRATION, THE FREIGHT STORY: A NATIONAL PERSPECTIVE ON ENHANCING FREIGHT TRANSPORTATION 5, available at <http://ops.fhwa.dot.gov/freight/publications/fhwaop03004/freight.pdf> (last visited June 29, 2009). “Congestion . . . contributes to making transit times longer and more unpredictable. Unpredictability can hamper just-in-time inventory management and hinder some production processes. As a result, shippers and carriers assign a value to increases in travel time, ranging from \$25 to almost \$200 per hour, depending on the product carried.” *Id.*

175. *See id.*

176. I69Info.com: Why Build It?, <http://www.i69info.com/why.html> (last visited June 29, 2009) [hereinafter Why Build it?].

177. *Id.*

178. *Id.*

179. *Id.*

million passengers and pedestrians and 70,451 truck, rail, and sea containers.¹⁸⁰

With such a large number of people and shipments moving through the borders, delays occur frequently, and inspections must be done quickly to move the volume of traffic through the ports.¹⁸¹ The technological and physical improvements that comprise the NAFTA Superhighway system would greatly alleviate these problems by reducing the number of comprehensive and intrusive inspections that CBP would need to perform.¹⁸² Additionally, to further aid security between the NAFTA nations, the United States, Canada, and Mexico have entered into the Security and Prosperity Partnership of North America (SPP).¹⁸³ The SPP in conjunction with the NAFTA Superhighway will greatly increase border security and efficiency of transportation of commercial goods across North American borders.¹⁸⁴ According to the SPP website, the SPP “will establish a common approach to security to protect North America from external threats, prevent and respond to threats within North America, and further streamline the secure and efficient movement of legitimate, low-risk traffic across our shared borders.”¹⁸⁵ The FHWA divides international transportation security into two classes: “[P]re-9/11’ (protection against theft and traditional contraband, such as narcotics) and ‘post-9/11’ (protection against terrorism).”¹⁸⁶ The advanced tracking features that would comprise part of the NAFTA Superhighway would greatly increase security in the form of less theft and tampering, as well as promote quick responses to crimes in progress.¹⁸⁷

C. The NAFTA Superhighway and Immigration

The implementation of a high-tech transportation corridor, and the intrinsic economic benefits for Mexico, could potentially have a major impact upon immigration from Mexico into the United States.¹⁸⁸ This expected impact

180. Fact Sheet: A Typical Day for CBP in 2008, U.S. Customs and Border Protection available at http://www.cbp.gov/xp/cgov/about/accomplish/fy08_typical_day.xml (last visited Jan. 31, 2009).

181. See Stopa, *supra* note 1.

182. See SPP Myths vs. Facts, *supra* note 45 (“To speed cargo shipping, the three countries are developing uniform in-advance electronic exchange of cargo manifest data for maritime, railroad and motor carriers.”).

183. *Id.* (“The SPP is a White House-led initiative among the United States and the two nations it borders – Canada and Mexico – to increase security and to enhance prosperity among the three countries through greater cooperation. . . . The SPP provides a vehicle by which the United States, Canada, and Mexico can identify and resolve unnecessary obstacles to trade and it provides a means to improve our response to emergencies and increase security, thus benefiting and protecting Americans.”).

184. *Id.*

185. SPP Leaders’ Statement, *supra* note 52.

186. FREIGHT TECHNOLOGY BENEFITS, *supra* note 160.

187. *Id.*

188. See INDEPENDENT TASK FORCE REPORT, *supra* note 118, at 12; Orrenius, *supra* note 61, at 458-60 (discussing the causes and effects of migration into the United States from the

stems from the theory that Mexican immigration into the United States is primarily economic in nature¹⁸⁹ and would best be reduced by an economic solution.¹⁹⁰ Specifically, “[t]he gap in wages has led many Mexicans to travel north in search of higher incomes and better opportunities . . . Mexico is also the leading source of unauthorized migration, with attendant economic and security problems in both countries and untold hardships for Mexican migrants.”¹⁹¹ While experts may differ about the extent of the wage differential,¹⁹² many agree that the root cause is closely linked to it.¹⁹³ Unfortunately, much of current U.S. immigration policy is driven mostly by fear and misunderstanding in the wake of the September 11, 2001, attacks and does not attempt to solve the problem by addressing its causes.¹⁹⁴

Experts believe that “deep-rooted economic and social factors drive this migration.”¹⁹⁵ Ultimately, the migration has had serious impacts upon the Mexican economy, which then widens the wage gap and exacerbates the problem which caused the migration in the first place.¹⁹⁶ Pia Orrenius describes the problem in terms of the effects on the respective labor markets:

While discussion typically focuses on immigration’s economic impact on the United States, the impact of the out-migration of millions of Mexican workers and their families is felt in both home and host country. Mexico has lost over 10 percent of its prime working-age population to the U.S. labor market in just a few decades. Despite the fact that Mexican immigrants typically fall into the low end of the U.S. skill distribution, they are closer to the middle of the Mexican income distribution, meaning their absence translates into a loss of both human and physical capital.¹⁹⁷

Furthermore, “[a] very high rates of out-migration, communities lose their economic base along with their working-age populations, and can begin to decline or die out.”¹⁹⁸ This negative spiral will continue until the cause of the

Mexican perspective); Woroby, *supra* note 47, at 257-62 (discussing the effects of Mexican-U.S. migration and possible solutions).

189. INDEPENDENT TASK FORCE REPORT, *supra* note 118, at 12.

190. Woroby, *supra* note 47, at 260 (“The only permanent solution, therefore, is to address the underlying causes of such undocumented migration.”); INDEPENDENT TASK FORCE REPORT, *supra* note 118, at 12 (“Over time, the best way to diminish these problems is by promoting better economic opportunities in Mexico.”).

191. INDEPENDENT TASK FORCE REPORT, *supra* note 118, at 12.

192. See Orrenius, *supra* note 61, at 458; Woroby, *supra* note 47, at 257.

193. Orrenius, *supra* note 61, at 458; Woroby, *supra* note 47, at 257, INDEPENDENT TASK FORCE REPORT, *supra* note 118, at 12.

194. See Woroby, *supra* note 47, at 258-59.

195. Orrenius, *supra* note 61, at 458.

196. See *Id.* at 458-60.

197. *Id.* at 459.

198. *Id.*

problem is addressed. "Put simply, people will continue to come to the United States as long as they can obtain higher paying employment there. It is only by focusing on this fact that specific permanent solutions can be found."¹⁹⁹

While many believe that immigration issues are rooted in economic theory,²⁰⁰ unfortunately, this "is a reality that has not fully resonated with U.S. policymakers, who focus on strengthening barriers to entry and so avoid addressing the causes of undocumented migration."²⁰¹ This has manifested most recently in the Secure Border Initiative (SBI), which the Department of Homeland Security characterized as "a comprehensive multi-year plan to secure America's borders and reduce illegal migration."²⁰² The SBI involves an intense increase in border security in the United States to physically prevent illegal immigration, including more border agents, expanded detention facilities, and increased physical infrastructure at the border.²⁰³ Additionally, the SBI will tighten enforcement of hiring undocumented workers.²⁰⁴

However, author Tamara Woroby states that, "While building walls at the border may seem to be an immediate solution to preventing further undocumented migration, such a policy will simply encourage other more creative ways to enter the United States."²⁰⁵ This observation is supported by the great lengths to which illegal immigrants and smugglers have gone to circumvent the border controls of the United States, such as building tunnels under the border between the United States and Mexico.²⁰⁶ Additionally, "[t]he stark reality is that there is no practical way for the United States to identify and deport 12 million people, and therefore one has to think about how best to manage this population."²⁰⁷ In this light, the current U.S. policy and attitude toward Mexican immigrants will likely serve to exacerbate rather than alleviate the problem.²⁰⁸

Nevertheless, construction and implementation of the NAFTA Superhighway in the United States and Mexico would greatly ease the transition of the Mexican economy into one that would retain or even draw

199. Woroby, *supra* note 47, at 260-61.

200. *Id.* at 257.

201. *Id.* at 262.

202. Fact Sheet: Secure Border Initiative, U.S. Department of Homeland Security, *available at* http://www.dhs.gov/xnews/releases/press_release_0794.shtm (last visited Feb. 7, 2008) [hereinafter *SBI Initiative*].

203. *Id.* *But cf.* Woroby, *supra* note 47, at 261 ("While employer sanctions can significantly reduce the draw of U.S. jobs, policies that help create more and better jobs in the sending countries, particularly in Mexico, are also imperative.").

204. *SBI Initiative*, *supra* note 202.

205. Woroby, *supra* note 47, at 260.

206. Simply entering the word "tunnel" into a search at <http://www.cbp.gov>, yields several results of border patrol discoveries of illegal tunneling between the United States and Mexico. U.S. Customs and Border Protection, <http://www.cbp.gov> (last visited June 29, 2008).

207. Woroby, *supra* note 47, at 259.

208. *See id.* at 257-62; Orrenius, *supra* note 61, at 458-60.

workers back from the United States.²⁰⁹ In fact, construction of an integrated transportation corridor using the aforementioned private interest financing methods would generate jobs for the actual construction of the roadways themselves.²¹⁰ Similarly, it would induce investment of companies that would potentially profit from the construction and control of such a corridor.²¹¹ Additionally, the physical portions of the Mexican corridor itself would likely have to come from mostly foreign or local investment, since Mexico does not have the benefit of the U.S. federal financing.²¹² The Mexican government is not equipped to handle large scale investment projects and is even privatizing many of the previously state-controlled industries to cut governmental costs.²¹³

However, economists have shown that foreign direct investment (FDI) into Mexican economic sectors benefits those sectors greatly.²¹⁴ Sectors which have been well connected to the United States, such as the Northern Border and the Central Western regions have had their economies boosted by the inflow of FDI due to the increased competitive advantages from the ease of access between the United States and Mexico.²¹⁵ “Thus policymakers truly concerned with immigration should examine the questions of why the Mexican economy has not obtained the expected benefits of NAFTA and what can be done to deliver on the promise of NAFTA.”²¹⁶

D. *Efficiency and Quality of Life Improvements*

One last substantial benefit to citizens in NAFTA countries is the improved efficiency and quality of life gained from a technologically advanced highway system.²¹⁷ According to the FHWA,

209. See About NASCO, *supra* note 69. “For every [dollar] invested in the NASCO Corridor, \$5.70 is returned in economic benefits.” *Id.* For every billion dollars spent on the NAFTA Superhighway, 47,500 jobs are created. *Id.*

210. See *id.*

211. See TTC FAQ, *supra* note 137.

212. See *supra* Part II.d.

213. See Werner, Barros & Ursua, *supra* note 29, at 72 (“The reduction of the public sector also included the sale of several enterprises previously owned and run by the state. There were several reasons to promote a large-scale privatization strategy. First of all, there was no reason for the government to own and run most of these enterprises, as they could work properly under a competitive market setting. Second, the privatization was aimed at increasing public revenues, redirecting public investment, and regaining the trust of the private sector in the government.”). *Id.*

214. Tamayo-Flores, *supra* note 72, at 135.

215. *Id.*

216. Woroby, *supra* note 47, at 261. See also Susan M. Richter, J. Edward Taylor & Antonio Yunez-Naude, *Impacts of Policy Reforms on Labor Migration from Rural Mexico to the United States*, at 269 (Nat’l Bureau of Econ. Research, Working Paper No. 11428, 2005) (arguing, based on economic data collected, that NAFTA and the Immigration Reform and Control Act (IRCA) reduced the number of illegal immigrants into the United States, while increased border security actually increased their numbers.).

217. FREIGHT TECHNOLOGY BENEFITS, *supra* note 160.

To the degree that intelligent freight technologies succeed in smoothing flows around major hubs like ports, border crossings, and intermodal terminals, tangible environmental and quality-of-life benefits will result. Reduced congestion means fewer trucks and other vehicles stuck in traffic, burning fuel and affecting air quality. It also means less stress on affected neighborhoods and less time wasted sitting in traffic.²¹⁸

Thus, the NAFTA Superhighway will bring with it benefits to the economy (government, corporate, and personal), national security, immigration, and quality of life. While it is not free of drawbacks, such benefits should not be summarily discounted in the face of difficulties.²¹⁹

E. Economic Drawbacks and Physical Dangers of the NAFTA Superhighway

Like any project of this scale, the NAFTA Superhighway is not without its criticisms.²²⁰ First, many of the critics of NAFTA itself transfer that criticism to the NAFTA Superhighway,²²¹ and with good reason, as it enables the signatory nations to fully participate in the goals of NAFTA.²²² The U.S. House of Representatives, for instance, passed House Resolution 40, which is a commentary that the United States should not engage in SPP talks, nor build a NAFTA Superhighway, because “according to the Department of Commerce, United States trade deficits with Mexico and Canada have significantly increased since the implementation of the North American Free Trade Agreement.”²²³

House Resolution 40 also commented on other perceived dangers which would befall the United States if the NAFTA Superhighway were implemented.²²⁴ Specifically, the House feared that “future unrestricted foreign trucking into the United States can pose a safety hazard due to inadequate maintenance and inspection, and can act collaterally as a conduit for the entry into the United States of illegal drugs, illegal human smuggling, and terrorist

218. *Id.*

219. *See supra* Part III.d.

220. This Part will focus primarily on the criticisms of the NAFTA Superhighway from a pragmatic or physical standpoint. For a discussion of the primarily political criticisms of the project, see *infra* Part IV.

221. *See* H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>: (last visited Oct. 15, 2007).

222. *See* About NASCO, *supra* note 69.

223. H.R. Res. 40. This resolution is particularly ironic given the fact that the trade deficit with Mexico would probably be much less if Mexican trucks were allowed into the United States. *See id.*

224. *Id.*

activities.”²²⁵ However, this assertion seems to reflect the notion that the NAFTA Superhighway would simply be opening United States borders, and discounts the technological aspects of the project.²²⁶ Further, the House warns that “it could be particularly difficult for Americans to collect insurance from Mexican companies which employ Mexican drivers involved in accidents in the United States, which would likely increase the insurance rates for American drivers.”²²⁷ Again, it seems that this is an assertion based on merely dissolving the current safeguards that the United States has in place to protect American motorists; safeguards which, incidentally, are contrary to NAFTA and should be dissolved in favor of policies more in line with the goals of NAFTA in the first place.²²⁸

Nevertheless, it is clear that there are significant hurdles to overcome before the NAFTA Superhighway can become a reality.²²⁹ Rather than merely pointing out its flaws, the House of Representatives should be finding ways to alleviate the potential safety issues associated with an international highway system. Perhaps, similar to the prepaying of tolls for duties and highway use, insurance premiums could also be tracked electronically, thus eliminating the fear that they would not be collectable.²³⁰ In any event, while there may be significant challenges to the implementation of the NAFTA Superhighway, such challenges should not deter the NAFTA nations from implementing the Superhighway project.

IV. THE POLITICAL BACKLASH OF THE NAFTA SUPERHIGHWAY

A. Public Misperceptions of the Project

Despite the scale and potential positive impacts of the NAFTA Superhighway, public understanding of the project is amazingly low. For example, many political pundits such as Jerome Corsi, head of the Swift Boat Veterans campaign against John Kerry in 2004,²³¹ have launched an assault on the NAFTA Superhighway, denouncing it for several reasons.²³² Chiefly, the critics of the NAFTA Superhighway attack the physical construction of the highway; they further assert that the project is the first leg in a hidden government conspiracy to unite the NAFTA nations into a “North American

225. *Id.*

226. *See supra* Part II.c.

227. H.R. Res. 40.

228. Mexican Truck Chronology, *supra* note 36. In December of 1995, “President Clinton postpone[d] implementation of NAFTA cross-border trucking provision based on safety and environmental concerns.” *Id.*

229. *See* H.R. Res. 40.

230. *See* Carroll, *supra* note 79.

231. Shikha Dalmia & Leonard Gilroy, *The Conspiratorial Highway*, L.A. TIMES, Sept. 21, 2007, available at 2007 WLNR 18555053 [hereinafter *The Conspiratorial Highway*].

232. *Id.*

Union" (NAU) with its own currency, the "amero".²³³ Also, Corsi and others insist that the SPP was the Bush Administration's attempt to cede United States sovereignty to NAFTA to form the NAU.²³⁴ These fears are echoed in newspapers, editorials, and state legislatures across the country.²³⁵ This Part will address each of these fears: the government conspiracy, the physical construction of the highway, the NAU, and the fears of loss U.S. sovereignty.

First, there seems to be a public outcry against the NAFTA Superhighway on the grounds that it is a conspiracy on the part of the Bush Administration to unite the NAFTA nations under one banner or one economy.²³⁶ Corsi, who often leads the charge against the NAFTA Superhighway, focuses on all the potential negative impacts of the project and generally charges the Bush Administration with intending these negative outcomes.²³⁷ Corsi believes, for instance, that President Bush's plan is to implement the NAFTA Superhighway solely to the detriment of American workers, apparently because importation of goods through Mexico bypasses all union workers in the United States.²³⁸ According to Mr. Corsi, the Kansas City Smartport is being built exclusively for Mexico at the expense of American taxpayers.²³⁹ Additionally, Phyllis Schlafly, a political pundit for EagleForum.org, speaks in similar doomsday language regarding the NAFTA Superhighway.²⁴⁰ According to Ms. Schlafly, increasing productivity with competitive advantage is "globalist doubletalk which means producing U.S. goods with cheap foreign labor, thereby destroying the U.S. middle class."²⁴¹ With language like this being spread rampantly around the internet, and even on television through such personalities as Lou Dobbs, it is no wonder why many Americans fear the NAFTA Superhighway.²⁴²

These critical analyses of the situation, however, are flawed in their own right. Despite Mr. Corsi and Ms. Schlafly's accusations, the NAFTA Superhighway project has not been conducted in secret, and the project was not even designed or planned by the Bush Administration.²⁴³ In fact, most of the proposals for the NAFTA Superhighway came before President Bush took

233. *Id.*

234. *Id.*

235. See, e.g., Editorial, *Amero Is a North American Union in Our Future?*, THE PADUCAH SUN, Oct. 12, 2007, available at 2007 WLNR 20042674 [hereinafter *NAU in Our Future*].

236. *The Conspiratorial Highway*, *supra* note 231.

237. See *Quietly*, *supra* note 75.

238. *Id.*

239. *Id.*

240. Phyllis Schlafly, *The NAFTA Superhighway*, EAGLEFORUM.ORG, Aug. 23, 2006, <http://www.eagleforum.org/column/2006/aug06/06-08-23.html> [hereinafter *The NAFTA Superhighway*].

241. *Id.*

242. *NAU in Our Future*, *supra* note 235. Lou Dobbs has used his influence as a CNN anchor to spread fears about the NAFTA Superhighway and the SPP. *Id.*

243. See e.g. Stopa, *supra* note 1; Carroll, *supra* note 79; *The Conspiratorial Highway*, *supra* note 231.

office.²⁴⁴ Additionally, though President Bush took unprecedented steps to improve the integration of transportation systems between the countries, like with trucking pilot programs with Mexico,²⁴⁵ NAFTA's provisions required the full allowance of Mexican trucks onto U.S. roadways.²⁴⁶ Thus, with NAFTA's signing, a very public and pervasive integration of its signatory nations was initiated.²⁴⁷

In addition, the implementation of the NAFTA Superhighway has not been conducted "quietly but systematically"²⁴⁸ by the Bush Administration as alleged. NASCO, North America's SuperCorridor Coalition, has a publicly available website.²⁴⁹ The front page of the website begins with the quote, "For more than 13 years, NASCO and its members have stood at the forefront of driving public and private sectors to unite to address strategically critical national and international trade, transportation, security and environmental issues."²⁵⁰ Additionally, NASCO has been actively and successfully advocating in Congress – the same Congress that apparently has been hoodwinked by the Bush Administration according to Mr. Corsi²⁵¹ – for legislation and funding for the NAFTA Superhighway.²⁵² Accordingly, in light of NASCO's statistics and the actual legislation passed, it becomes exceedingly difficult to accept Mr. Corsi's view of a secret government conspiracy.²⁵³

The second great fear incited by the NAFTA Superhighway's critics is the NAU. Again, the American people have been bombarded by misinformation and mischaracterizations of the NAFTA Superhighway and the SPP.²⁵⁴ The paradox is that these commentators prey upon and then exacerbate the ignorance of the American people by mischaracterizing statistics,²⁵⁵ and then use the fact that most American do not know much about the project as

244. Stopa, *supra* note 1; Carroll, *supra* note 79.

245. Elizabeth White, *Allowing Mexican Trucks in U.S. Assailed*, THE SEATTLE TIMES, Sept. 7, 2007, available at <http://archives.seattletimes.nwsource.com/cgi-bin/texis.cgi/web/vortex/display?slug=trucks07&date=20070907>.

246. NAFTA Trucking Access, *supra* note 65.

247. Tamayo-Flores, *supra* note 72, at 120.

248. *Quietly*, *supra* note 75.

249. About NASCO, *supra* note 69.

250. North America's SuperCorridor Coalition, Inc., <http://www.nascocorridor.com/> (last visited Feb. 11, 2009)(emphasis added).

251. See *Quietly*, *supra* note 75 ("Highway planning that has been going on without any new congressional legislation directly authorizing the construction of the planned international corridor through the center of the country.").

252. NASCO Logistics, *supra* note 113.

253. See *supra* Part II.d.

254. See *The NAFTA Superhighway*, *supra* note 240; Phyllis Schlafly, *Scholars Explain Bush's SPP*, EAGLEFORUM.ORG, Oct. 10, 2007, <http://www.eagleforum.org/column/2007/oct07/07-10-10.html> (hereinafter *Scholars Explain*).

255. See *The Conspiratorial Highway*, *supra* note 231 ("Corsi has knitted disparate strands of each of these separate road projects to help convince fellow xenophobes such as Pat Buchanan, Phyllis Schlafly, Lou Dobbs and the John Birch Society that the corridor is the first leg of a secret federal project called the NAFTA Superhighway . . .").

evidence that it is being planned secretly to undermine the sovereignty of the United States.²⁵⁶ Specifically, Ms. Schlafly indicates that, “[i]ntegration’ with Mexico and Canada is exactly what a North American Union means, but there’s a big problem with this goal. ‘We the people’ of the United States were never asked if we want to be ‘integrated’ with Mexico and Canada.”²⁵⁷ Ms. Schlafly is not alone in this mischaracterization. According to Lou Dobbs, economic integration with Mexico and Canada is “a very serious and unprecedented challenge to the sovereignty of this nation. And it’s happening utterly without the knowledge and certainly without the approval of the American people or the consent of Congress.”²⁵⁸ Even former Republican Presidential Candidate Ron Paul, a U.S. Representative from Texas, adopts this line of logic.²⁵⁹ According to Rep. Paul, “decisions that affect millions of Americans are not being made by those Americans themselves, or even by their elected representatives in Congress. Instead, a handful of elites use their government connections to bypass national legislatures and ignore our Constitution”²⁶⁰

Unfortunately for the critics, there is not much solid information behind the threats of the NAU and loss of American sovereignty.²⁶¹ The irony of these arguments, especially on the part of Representative Paul, is that they openly contend that the SPP and the NAFTA Superhighway are being plotted secretly²⁶² and without the knowledge or consent of the Congress,²⁶³ of which Representative Paul himself is a member. In truth, the United States, Canada, and Mexico have been open and honest with regard to the SPP²⁶⁴ and continuously announce the meetings of the heads of state of the NAFTA nations.²⁶⁵ Further, President Bush has denounced the fears of the NAU as “political scare tactics.”²⁶⁶ President Bush further stated:

“You know, there are some who would like to frighten our fellow citizens into believing that relations between us are

256. See *Scholars Explain*, *supra* note 254.

257. *Id.*

258. *NAU in Our Future*, *supra* note 235.

259. Ron Paul, *The NAFTA Superhighway*, RON PAUL’S TEXAS STRAIGHT TALK, Oct. 30, 2006, <http://www.house.gov/paul/tst/tst2006/tst103006.htm>.

260. *Id.*

261. See Bruce Ramsey, *Bet Your Bottom Amero that U.S. Sovereignty is Safe*, THE SEATTLE TIMES, Aug. 22, 2007, at B6.

262. See *Quietly*, *supra* note 75.

263. Paul, *supra* note 259.

264. See Security and Prosperity Partnership of North America, <http://www.spp.gov/> (last visited Jan. 31, 2009).

265. President George W. Bush, State of the Union Address (Jan. 20, 2008), *available at* <http://www.cnn.com/2008/POLITICS/01/28/sotu.transcript/>. President Bush, in the 2008 State of the Union address, stated, “[t]onight I’m pleased to announce that in April we will host this year’s North American Summit of Canada, Mexico, and the United States in the great city of New Orleans.” *Id.*

266. Jim Landers, *Don’t Fear that U.S., Canada, Mexico Will Merge*, THE DALLAS MORNING NEWS, Sept. 4, 2007, at 1D.

harmful for our respective peoples. I just believe they're wrong. . . . I believe it's in our interest to trade; I believe it's in our interest to dialogue; I believe it's in our interest to work out common problems for the good of our people."²⁶⁷

Basic economic theory seems to agree with President Bush.²⁶⁸ Additionally, it does not appear that exploring the option of fully and effectively implementing NAFTA will result in a loss of U.S. sovereignty, as there are many treaties in the past where the United States has agreed to forego some behavior.²⁶⁹ Thus, "[s]overeignty, for the moment, is safe."²⁷⁰

B. The Mexican Pilot Program and the Political Resistance

In 2007, the United States and Mexico began to implement a pilot program that would allow up to 100 companies from each country to have free road access to the other country.²⁷¹ This pilot program has met much resistance from groups such as the Sierra Club, the Teamsters, and the Truck Safety Coalition.²⁷² This program is the most recent in a long series of developments regarding Mexican trucks and United States highways.²⁷³

In 1982, the United States issued a moratorium on all Mexican trucks and busses, banning them from U.S. highways.²⁷⁴ Once NAFTA was signed, the moratorium should have been lifted according to NAFTA's provisions.²⁷⁵ However, this was not the case, as President Clinton immediately renewed the moratorium on Mexican trucks, citing safety precautions.²⁷⁶ However, Canadian trucks were (and still are) exempted from this moratorium²⁷⁷ just as they were quickly released from the first moratorium.²⁷⁸ In 2001, after Mexico

267. *Id.*

268. Woroby, *supra* note 47, at 260-61.

269. Ramsey, *supra* note 261. For example, treaties regarding nonproliferation and torture give up rights of the United States. *Id.*

270. *Id.*

271. White, *supra* note 245; Mexican Truck Chronology, *supra* note 36, at 2.

272. NAFTA Trucking Access, *supra* note 65; Freight Teamsters, Mexican Truck Program 'Sucker-punches' U.S., <http://freightteamsters.blogspot.com/2007/09/mexican-truck-program-sucker-punches-us.html> (last visited, June 30, 2009) [hereinafter Sucker-punches]; Jesse J. Holland, *Teamsters Seek Injunction Against Mexican Trucks in U.S.*, THE SEATTLE TIMES, Aug. 30, 2007, available at <http://archives.seattletimes.nwsource.com/cgi-bin/texis.cgi/web/vortex/display?slug=mextrucks30&date=20070830> (last visited June 30, 2009).

273. Mexican Truck Chronology, *supra* note 36.

274. *Id.* at 4.

275. NAFTA Trucking Access, *supra* note 65 ("NAFTA requires all roads in the United States, Mexico and Canada to be opened to carriers from all the three countries. Canadian trucking firms have full access to U.S. roads while Mexican trucks can only travel about 20 miles inside the country at certain border crossings like in San Diego and El Paso, Texas.")

276. Mexican Truck Chronology, *supra* note 36.

277. NAFTA Trucking Access, *supra* note 65.

278. Mexican Truck Chronology, *supra* note 36.

challenged the ban on its vehicles pursuant to NAFTA guidelines, the Arbitration Panel ruled that the United States must allow Mexican trucks onto its highways, but with the provision that it could take time to establish safety standards for Mexican trucks.²⁷⁹ In February 2007, the U.S. Department of Transportation announced that the United States and Mexico had reached an agreement for a pilot program allowing 100 companies unrestricted access to their respective highways.²⁸⁰ This sparked a series of Congressional actions, ranging from expressing disapproval and concern for safety to attempts at blocking funding for the pilot program.²⁸¹ Eventually, lawsuits were filed in an attempt to stop the implementation of the program by requesting an injunction against the program until proper safety measures could be formulated.²⁸² Ultimately, the Ninth Circuit Court of Appeals denied the injunction.²⁸³

The pilot program's opponents mainly voice concerns over safety considerations,²⁸⁴ but there are other concerns regarding illegal contraband and other impacts.²⁸⁵ However, these arguments seem to ignore the regulations of the pilot program itself, which require that "Mexican-domiciled carriers and U.S. and Canadian carriers are governed by the same safety standards when operating in the U.S."²⁸⁶ Further, the pilot program aims to correct the wildly inefficient system of transportation currently in place.²⁸⁷ The Federal Motor Carrier Safety Administration (FMCSA) states that the pilot program "will benefit consumers by reducing the costly practice of requiring all cross-border shipments to be hauled by three separate trucks operated by three different drivers and provide U.S. trucking companies the opportunity to expand their business into our nation's third-largest trading partner."²⁸⁸ There is also the idea that the opposition and lawsuits are directed less toward safety (since the rules of the program assure that Mexican trucks will actually have more rigorous precautions²⁸⁹) and more toward other political agendas, such as wages and

279. *Id.* at 3.

280. *Id.* at 2.

281. *Id.*

282. *Id.* at 1. White, *supra* note 245; NAFTA Trucking Access, *supra* note 65.

283. White, *supra* note 245.

284. NAFTA Trucking Access, *supra* note 65 ("The union, along with the Sierra Club and the nonprofit Public Citizen, argues that the administration plan would endanger public highways because safety issues have not been resolved.").

285. Sucker-punches, *supra* note 272 ("Hoffa [the Teamsters Union President] told the annual Teamsters Women's Conference at the Hilton Americas hotel that drugs could come in the U.S. across the border in the trucks. He said that although the Bush administration says it is concerned about national security, the program will threaten safety.").

286. United States Department of Transportation: Federal Motor Carrier Safety Administration, Federal Motor Carrier Safety Regulatory Guidance – Mexican Rules, <http://www.fmcsa.dot.gov/rules-regulations/administration/nafta/NAFTA-Fact-Sheet.htm> (last visited Feb. 8, 2007) [hereinafter Mexican Rules].

287. Holland, *supra* note 272.

288. *Id.*

289. Sucker-punches, *supra* note 272.

competition.²⁹⁰ Given that the injunction was denied by the Ninth Circuit,²⁹¹ and the concerns about safety are directly addressed by the procedures in the pilot program,²⁹² this issue never gained much traction in the mainstream media.

Though the issue has not received much public notoriety since the Teamsters' injunction was denied,²⁹³ it did resurface at least in part during the 2008 election.²⁹⁴ Representative Paul, who was a Republican candidate for United States President, openly discussed his fears about the NAFTA Superhighway, and adopted the slippery slope argument toward the NAU.²⁹⁵ Specifically, in his weekly column, "Texas Straight Talk," on October 30, 2006, Representative Paul commented on House Resolution 40:²⁹⁶ "I wholeheartedly support this legislation, and predict that the superhighway will become a sleeper issue in the 2008 election."²⁹⁷ Though the statement may have been partially accurate, the NAFTA Superhighway and NAFTA in general were not major issues in the election.

V. PROPOSALS AND POLICY RECOMMENDATIONS FOR THE NAFTA SUPERHIGHWAY

The final part of this Note explores exactly how and why the NAFTA Superhighway should be implemented. Subpart (a) examines the impacts of the NAFTA Superhighway on North America, particularly the United States and Mexico, and concludes that the NAFTA Superhighway will not only benefit these countries, but will also prove indispensable for the North American economy in the twenty-first century.²⁹⁸ Subpart (b) sets out this Note's recommendations as to exactly what methods should be used to construct the NAFTA Superhighway.²⁹⁹ Additionally, this subpart proposes solutions to the political problems that have plagued the project.³⁰⁰

290. *Id.*

291. White, *supra* note 245.

292. Mexican Rules, *supra* note 286.

293. White, *supra* note 245.

294. See *Lou Dobbs Tonight: The Latest on Campaign '08 – Part 2* (CNN television broadcast Feb. 25, 2008) [hereinafter *Lou Dobbs Tonight*]. In the Ohio primary, both Clinton and Obama treated NAFTA as a "dirty word." *Id.*

295. Paul, *supra* note 259.

296. H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>: (last visited Oct. 15, 2007) (Criticizing the SPP and expressing disapproval for a NAFTA Superhighway.).

297. Paul, *supra* note 259. As it turns out, Congressman Paul was at least partially right. See *Lou Dobbs Tonight*, *supra* note 294.

298. See *infra* Part V.a.

299. See *infra* Part V.b.

300. *Id.*

A. The NAFTA Superhighway Will Prepare North America to Compete in the Twenty-First Century

Construction and implementation of the NAFTA Superhighway project will ensure that the United States, Canada, and Mexico will compete in the global trade market in the twenty-first century. The NAFTA Superhighway project will bring with it increased economic,³⁰¹ immigration,³⁰² security,³⁰³ and safety³⁰⁴ benefits to North America.

First, the NAFTA Superhighway will bring benefits to the North American economy in several forms. The specialized routes, high tech tracking, and streamlined customs procedures will greatly decrease transportation times for goods, thereby reducing ultimate costs to the consumer.³⁰⁵ Additionally, the amount of truck traffic between the NAFTA nations has drastically increased³⁰⁶ (even without Mexican trucks having access to the United States³⁰⁷) and is likely to continue to increase throughout the next century.³⁰⁸ Without the construction of an efficient method of transportation for this increase in trucks, not only will the benefits incident to the NAFTA Superhighway not be realized, but it is likely that costs of shipping freight over land would begin to increase, thus hurting the NAFTA nations' economies.³⁰⁹

Additionally, while some critics blame NAFTA for the excessive negative economic impact on the United States due to job loss,³¹⁰ these effects would likely be alleviated by the deepening of the relationships among the NAFTA nations.³¹¹ This is because economic theory suggests that the labor market will stabilize in the most advantageous economic position once a market is more fully integrated (including the labor sector).³¹² While this may cause short-term

301. See e.g., About NASCO, *supra* note 69.

302. E.g., Woroby, *supra* note 47, at 257-62.

303. E.g., Carroll, *supra* note 79.

304. E.g., Why Build It?, *supra* note 176.

305. Stopa, *supra* note 1, at ¶ 7.

306. *Surface Trade*, *supra* note 3.

307. See Mexican Rules, *supra* note 286.

308. *Surface Trade*, *supra* note 3.

309. See *Miles of Infrastructure*, *supra* note 6, at tbl.3-1.

310. See H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>: (last visited June 30, 2009). Mexicans also have a negative opinion of NAFTA. Weintraub, *supra* note 30, at 59.

311. Gregory Bowman, *Regional Trade Agreements: Broadening versus Deepening*, 19 IND. INT'L & COMP. L. REV. 497 (2009). Professor Bowman employs the term "deepening" in the context of trade agreements to mean a closer integration of the regional economies. *Id.* "Deepening" is contrasted to "broadening," which is the addition of new markets to a regional trade agreement. *Id.*

312. Symposium, *Assessing the Impact of Existing Bilateral and Multilateral U.S. Trade Agreements and Attempting Policy Recommendations for the Future*, 19 IND. INT'L & COMP. L. REV. 569 (2009). According to Professor Cherie Taylor of South Texas College of Law, part of the reason the NAFTA model faces criticism is due to its lack of provision allowing the movement of labor. *Id.*

job loss in certain geographical areas, the actual impact is that jobs are relocating for economic efficiency. This means previously inefficient labor is free to seek out new, more productive markets.³¹³

A similar argument is raised against the problem of illegal immigration from Mexico into the United States. Pia Orrenius discusses the economic effect of immigration on wages and job competition, and demonstrates (at least for the labor sector) how economic efficiency works.³¹⁴ One cornerstone of her argument, which echoes the deepening argument advanced by Professors Bowman and Taylor,³¹⁵ is that as immigrants enter the country, they are largely unskilled and enter the lowest end of the labor market.³¹⁶ Additionally, “existing workers may respond to immigrant inflows by moving out of gateway labor markets, changing jobs, or going back to school to learn new skills.”³¹⁷ Analogizing this to the broader concept of labor equalization in general yields that a deepening of the relationship between the NAFTA countries would be beneficial to all involved.³¹⁸ The NAFTA Superhighway represents a large step toward that deepening.

Closely tied to the economic benefits of the NAFTA Superhighway are the positive impacts it would have on immigration, primarily for the United States and Mexico.³¹⁹ Currently, Mexico has lost approximately ten percent of its labor force to immigration into the United States,³²⁰ and this has had profound impacts on both nations.³²¹ Ultimately, however, the problems with both legal and illegal immigration are economic in nature.³²² Unfortunately, knowing the source of this problem does little to solve it. The large number of documented and undocumented Mexican citizens living and working in the United States presents a unique problem with no easy solution.³²³ “The stark reality is that there is no practical way for the United States to identify and deport twelve million people. Therefore, one has to think about how best to manage this population.”³²⁴

The NAFTA Superhighway presents a unique approach to solving this problem. Deeper integration of the economic markets through an integrated transport system would bring many economic opportunities to Mexico.³²⁵

313. *See id.*

314. *See Orrenius, supra* note 61, at 460.

315. *See supra* text accompanying notes 310-11.

316. Orrenius, *supra* note 61, at 460.

317. *Id.*

318. *See supra* text accompanying notes 310-11; *see also* Weintraub, *supra* note 30, at 59-60.

319. *See* Woroby, *supra* note 47, at 257-61; Orrenius, *supra* note 61, at 458-60.

320. Woroby, *supra* note 47, at 257.

321. Orrenius, *supra* note 61, at 458-60.

322. Woroby, *supra* note 47, at 260-61.

323. *Id.* at 259.

324. *Id.*

325. *See* Tamayo-Flores, *supra* note 72, at 135-36; FREIGHT TECHNOLOGY BENEFITS, *supra* note 160, at ¶ Intelligent Freight Technology Benefits.

These economic opportunities in construction and the associated business investments would bring job opportunities to Mexico.³²⁶ Once job opportunities are created, the flow of labor into the United States could be slowed or potentially reversed because an increase in job opportunities would increase demand for jobs in Mexico.³²⁷ This would lead to narrowing the average wage gap, which is the one of the root causes of the immigration problem.³²⁸ Once the NAFTA Superhighway becomes fully operational, it would bring benefits to Mexico which would likely go a long way to alleviating the labor shortages and other problems caused by out-migration into the United States.

The NAFTA Superhighway would also have great benefits for both the national security of the United States, as well as security for the entire North American continent. As stated earlier, U.S. Customs and Border Protection (CBP) processed over 1.13 million passengers and pedestrians, 82,800 shipments of goods, and 70,200 truck, rail, and sea containers per day in 2007.³²⁹ However, inspection delays occur frequently and inspections must be done quickly in order to move the volume of traffic through the ports.³³⁰ Reducing the number of comprehensive and intrusive inspections that would need to be performed at the ports would enable CBP to perform more thorough inspections at the borders, thus increasing the security of all three nations.³³¹ As a result, the NAFTA Superhighway could greatly increase border security and efficiency in transportation of commercial goods across North American borders.³³² The advanced tracking features would comprise part of the NAFTA Superhighway and greatly increase security in the form of less theft and tampering. It could also promote quick responses to crimes in progress.³³³ In turn, this could potentially decrease the shipping of contraband or other illegal items across North American borders.³³⁴

326. See About NASCO, *supra* note 69, at ¶ Benefits; Tamayo-Flores, *supra* note 72, at 135-36.

327. See Woroby, *supra* note 47, at 259.

328. See *id.* at 257.

329. Fact Sheet: A Typical Day for CBP in 2008, U.S. Customs and Border Protection, available at http://www.cbp.gov/xp/cgov/about/accomplish/fy08_typical_day.xml (last visited Feb. 24, 2009).

330. See Stopa, *supra* note 1, at ¶¶ 5, 7.

331. See SPP Myths vs. Facts, *supra* note 45, at ¶ 3 (“To speed cargo shipping, the three countries are developing uniform in-advance electronic exchange of cargo manifest data for maritime, railroad and motor carriers.”). See generally The Kansas City Smartport, <http://www.kcsmartport.com> (last visited June 230, 2009).

332. SPP Myths vs. Facts, *supra* note 45.

333. FREIGHT TECHNOLOGY BENEFITS, *supra* note 160, at ¶ Intelligent Freight Technology Benefits.

334. See *id.*

B. *Proposals for the Implementation of the NAFTA Superhighway*

In order to complete a project of this magnitude, several obstacles must be surmounted. First and foremost is the fact that the construction of the physical aspect of the highway will take billions of dollars and thousands of man-hours of labor.³³⁵ The best solution to this is to segment the project and this is exactly what has been proposed, with each segment being funded and constructed by local governmental authorities.³³⁶ This solution has the potential to work extremely well in the United States, because of the nature of the funding framework between the U.S. federal government and the states.³³⁷ However, Mexico presents a different challenge because it is a lesser developed country with much less ability both locally and nationally to fund infrastructure projects.³³⁸

For Mexico, foreign investment will be required in order to jump start the construction and implementation of the NAFTA Superhighway.³³⁹ While in the United States, a mixture of the various funding options discussed in Part II.d of this Note will likely be employed to construct the NAFTA Superhighway, Mexico's weaker national and local governments make it less likely that methods such as CDA's and pass-through financing would be effective.³⁴⁰ The best option is probably one similar to the tacks taken by Indiana with the Indiana Toll Road, and Illinois with the Chicago Skyway.³⁴¹ These two roads were leased to private companies, who then received rights to operate the roads, collect the revenues and become responsible for maintenance.³⁴²

A similar process could work in Mexico. Rather than leasing an existing road, however, the Mexican government could enter into agreements with companies to invest in construction of the roadway in exchange for the rights to operation. Much like the companies who operate the Indiana Toll Road and the Chicago Skyway, companies would invest in the construction of the roadway on the promise of the back end profits from collecting tolls.³⁴³ Additionally,

335. See About NASCO, *supra* note 69; see also Frequently Asked Questions, I-69 Tier 2 Studies: Evansville to Indianapolis, Indiana, <http://www.i69indyevn.org/faq.html> (last visited June 30, 2009) [hereinafter *Indy-Evansville FAQ*]. The cost of the segment of Interstate 69 in Indiana between Evansville and Indianapolis is slated to cost between \$1.7 and \$1.8 billion. *Id.*

336. See Project Funding Options, *supra* note 139, at ¶ 3. Texas has undertaken for itself the improvement of I-35 and other interstates running through that state. *Id.*; see also *Indy-Evansville FAQ*, *supra* note 334. The funding and planning for the Indiana section of Interstate 69 has been spearheaded by Indiana Governor Mitch Daniels. *Id.*

337. See RAMIREZ, *supra* note 116, at 17.

338. INDEPENDENT TASK FORCE REPORT, *supra* note 118, at 12.

339. *Id.*

340. See Project Funding Options, *supra* note 139, at ¶¶ 9, 11.

341. Amy Goldstein, *Privatization Backlash in Indiana: Plan to turn over toll road to foreign firms spawns political storm*, WASH. POST, at ¶¶ 3-4 (June 18, 2006), available at <http://www.post-gazette.com/pg/06169/698927-84.stm>.

342. *Id.*

343. See Project Funding Options, *supra* note 139, at ¶ 12.

with respect to the technological aspects of the NAFTA Superhighway, most of these projects are privately driven, even in the United States, so no major changes would need to be made to adapt the project to Mexico.³⁴⁴ Further, the implementation of technological improvements stands to decrease in cost as implementation becomes more widespread, thus expanding into Mexico would become easier.³⁴⁵

The second major hurdle to overcome will be the political backlash and public misconceptions surrounding the project.³⁴⁶ This is likely the biggest hurdle to the NAFTA Superhighway's implementation, because so long as the public believes that NAFTA is detrimental to the United States, members of Congress will continue to rail against it.³⁴⁷ The ironic twist is that many of these same members of Congress are the ones who foster the negative public image of NAFTA and the NAFTA Superhighway.³⁴⁸ In order for the NAFTA Superhighway project to be successfully implemented, the United States public perceptions of the project must be greatly changed. Perhaps the biggest concern to address is the loss of jobs that seems to be in the forefront of all criticisms of NAFTA,³⁴⁹ followed closely by the fears of a North American Union with a common currency, the "amero".³⁵⁰ Once intelligent discussion of these issues reaches the forefront of the media, and American, Mexican, and Canadian citizens become more aware of the actual benefits and drawbacks of the NAFTA Superhighway, North America will likely be one step closer to a more prosperous future.

CONCLUSION

Whether simply decreasing the time it takes for a washer or dryer to go from Columbus, Ohio to Mexico City,³⁵¹ or whether it ushers in a new age of global competition for North America,³⁵² the NAFTA Superhighway stands to benefit North America in ways no other economic development tool has. The

344. See U.S.-Canada Corridor, *supra* note 9, at ¶ 4.

345. *Id.* at ¶ 10.

346. See *supra* Part IV.

347. See H.R. Con. Res. 40, 110th Cong. (2007), available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.CON.RES.40>: (last visited June 30, 2009).

348. Paul, *supra* note 259. In fact, where political gain appears promising through slandering NAFTA, both democratic presidential candidate Hillary Clinton and Barack Obama have disparaged NAFTA. See *Lou Dobbs Tonight*, *supra* note 294. In the Ohio primary, both Clinton and Obama treated NAFTA as a "dirty word." *Id.*

349. See *id.*; H.R. Con. Res. 40.

350. See *NAU in our future*, *supra* note 235. While it appears that many Americans (and politicians) fear the possibility of an NAU or the institution of the amero, this author finds those fears curious in light of the great strides Europe's economy has had since the adoption of the EU. While either eventuality is not likely in the near future, such a union or a single currency could likely strengthen the North American economy and create a more dominant force to contend in the global market. See *id.*; SPP Myths vs. Facts, *supra* note 45, at ¶ Myths vs. Fact.

351. Stopa, *supra* note 1, at ¶ 7.

352. See *supra* note 337 and accompanying text.

NAFTA Superhighway and its technological innovations will pave the way to the future of commercial transportation in North America. With the right policy reforms, it will also equalize the employment pools of the NAFTA countries and could potentially solve some of the biggest problems facing the United States and Mexico today.³⁵³ Though the NAFTA Superhighway will not come without cost to all three countries,³⁵⁴ the costs are far outweighed by the economic benefits it will bring to North America. The U.S. Presidential and Congressional elections in 2008 will play a major role in determining the future of the NAFTA Superhighway. However, despite many politicians' aversions to the subject, if North America is to survive as an economic competitor on a global scale in the twenty-first century against such economic powerhouses as the European Union and China, a deepening of the NAFTA relationship is ultimately necessary. Such a deepening is best and most efficiently accomplished through the physical linking of the countries through the NAFTA Superhighway.

353. *See supra* Part III.c.

354. *See supra* Part III.d.

