

# tradeweek

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## High Expectations



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American Business Council



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### Driving a New Era in Canada-U.S. Relations

*The following article was written by  
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Business Council.*

**P**resident Barack Obama's intention to make Canada his first foreign visit bodes well for Canada-U.S. relations. Unlike the urban

myth that is disseminated in Canada, there is actually no "tradition" of U.S. presidents making their first official international visits to their favorite neighbor. In fact, of the ten U.S. presidents who have been in office over the past 50 years, only four (presidents Kennedy, Johnson, Bush, Sr. and Clinton) made their first international visits to Canada. Presidents

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### C-TPAT Seminar in New Orleans

**M**ary Anderson, president of I.E.Canada, will participate in the 2009 C-TPAT Seminar in New Orleans. On April 2, 2009, Mary will be one of three panelists who will discuss the mutual recognition work being conducted between the

Customs-Trade Partnership Against Terrorism (C-TPAT) program and the Partners in Protection (PIP) program. If you plan to attend the seminar, please send Mary an e-mail at [manderson@iecanada.com](mailto:manderson@iecanada.com).

### Recall Workshop

**I**f you've watched a prime-time newscast of late, you know that food product recalls have recently been feature stories. In light of these high profile recalls and the public's growing awareness, industry's continued focus on food safety is paramount.

That's why our fourth annual food forum, which takes place February 18 and 19 in Toronto, will focus on the safety of the food supply chain and the best practices for removing unsafe products from the market.

If you're a food manufacturer, importer, or distributor, you won't want to miss the food recall workshop on the second day of our food forum. Food industry leaders – manufacturers, importers, and retailers - will teach you the best practices for recalling unsafe food products from the marketplace.

Ron Judge, vice president, food safety and quality, Maple Leaf Consumer Foods Ltd., will address his company's responsibilities as a food manufacturer and importer during a product recall. He will also tell you the lessons learned from the company's recent listeria recalls.

Don Lacey, senior director, quality assurance/customer relations, Loblaw Companies Ltd., will explain

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## Expectations, cont'd from pg. 1

Ford and Carter never even visited Canada during their terms in office, while presidents Eisenhower, Nixon, Reagan and the more recent Bush visited countries other than Canada first.

So the fact that President Obama is traveling to Canada first is even more significant than Canadians or Americans may think. Given the laser-like focus the Obama administration is placing on jump-starting the economy, it is clear that the outreach to Canada is not only warranted, but essential to this president's agenda.

If the North American community wants to know what the future of Canada-U.S. relations holds, look no further than the recent experiences of the North American auto industry. The recent woes of the auto makers on both sides of the border offer clues about how our leaders and our economies must work together to resuscitate the continental economy. There is no doubt that governments on both sides of the border are under tremendous pressure to alleviate the ripple effect on the U.S. and Canadian economies that will result from a collapse of this vital industry.

It is widely agreed that automobile manufacturing is one of our continent's most integrated industries. Its supply chain includes not only the historic "Big Three," but also hundreds of parts makers who employ hundreds of thousands of people on both sides of the border. The prominence and impact of the industry are evident from the government intervention undertaken on both sides of the 49th parallel. Consider the following summary of recent experience on the file.

After efforts to pass an auto-specific bailout bill in the U.S. Congress failed last December, outgoing President Bush announced that U.S. government funds would be paid

to the Big Three under the Troubled Assets Relief Program (TARP), a program initially implemented by the U.S. government in 2008 to assist financial institutions.

Before leaving office, President Bush provided two of the Big Three with an immediate injection of USD\$13.4 billion and committed an additional USD\$4 billion to be handed out this month. Early this year, General Motors collected USD\$9.4 billion. Chrysler collected USD\$4 billion. The U.S. funds, however, were not without conditions. In addition to debt-for-equity exchanges, terms mandated by the U.S. government include amendments to agreements with the United Auto Workers (UAW) Union that will quickly bring the Big Three's labor costs in line with those of Japanese manufacturers, essentially reducing wages by approximately USD\$10 per hour.

Canada quickly followed by announcing similar conditions. Within days of President Bush's December auto bailout announcement, Prime Minister Stephen Harper and Ontario Premier Dalton McGuinty announced a CAD\$4 billion aid package for Canada's auto industry. At the time of writing, a deal on the terms of the Canadian loans has not yet been reached between the governments and General Motors and Chrysler. While it seems at this point that the UAW will comply with the U.S. government's conditions, the Canadian Auto Workers (CAW) Union appears to be less willing to accept reduced wages, making it very difficult for the Big Three to justify continued operations on the northern side of the border. If the position of the CAW persists, it is possible that plant closings in Canada will occur beyond the temporary closings and shift reductions already announced over the past few months.

Parts makers on both sides of the

border have also called for government support. In the past month, Detroit parts suppliers have insisted that USD\$5-10 billion is needed for them to survive a cash crisis that is expected in the next two to three months. Meanwhile in Canada, parts makers have warned of collapse if loan negotiations are not concluded between General Motors and Chrysler and Ontario and the federal government. The Automotive Parts Manufacturers Association (APMA) asked Ottawa to provide \$1 billion to parts makers in the January 2009 budget.

In February, the Obama administration will be faced with determining whether the auto makers have made progress in meeting the conditions of the loans directed by its predecessor. President Obama will have to decide whether to provide more government assistance or force the auto makers to repay the loans, with the very likely result of bankruptcy.

President Obama's approach to the North American auto industry will, however, be balanced by his commitment to improved energy efficiency. He has called for a rule requiring that cars in the U.S. expend fewer than 50 miles per U.S. gallon (4.7L/100km) and has proposed tax credits to U.S. auto makers to ease that transition.

By visiting Canada first - at a time when the global economy is in crisis - President Obama is acknowledging the importance of North American collaboration. The bilateral relationship will also benefit in that President Obama is building a team of leaders that is no stranger to issues along the 49th parallel. Michael Chertoff has been replaced as secretary for homeland security by Janet Napolitano, who was hosted last fall by the Canadian American Business Council (CABC) on the Ottawa leg of her Canadian

## Shipping and Trade Horizons



Leo Ryan

*Shipping and Trade Horizons, a Tradeweek column, is produced by Leo Ryan. The column addresses Canadian industry issues and trade developments of interest to our members.*

### Seaway Turning 50

The St. Lawrence Seaway, one of the world's great engineering marvels, notably allowing vessels trading on the Atlantic Ocean and on the Great Lakes to penetrate into the industrial heartland of North America, is celebrating its 50th anniversary this year. April 25th marks the day of the first commercial vessel transit, while June 26 will be the golden anniversary of the official opening in Montreal by Queen Elizabeth and President Eisenhower.

Between 1959 and today more than 2 billion tonnes of cargo valued at approximately \$300 billion have moved to and from Canada, the United States and some 50 nations. A pretty important waterway, thus, for importers and exporters in Canada and the United States. The dominant commodities have traditionally been grain, coal and iron ore.

Ironically enough, the U.S. authorities for a number of years were reluctant to commit themselves to the gigantic enterprise. There was strong opposition from U.S. rail and

other private interests. In the end, there was an agreement to begin construction in 1954 of a project costing about \$1 billion and involving, among other things, the resettlement of entire communities in Ontario.

Various special ceremonies are planned, starting in late March at the St. Lambert Lock in Montreal and concluding with a weekend of celebrations at the Eisenhower Lock in Massena, NY in July.

Almost one quarter of Seaway traffic travels to and from overseas ports, especially in Europe, the Middle East and Africa. A specialized laker fleet in Canada is equipped with self-unloading equipment for unloading at shore facilities (ship to land) or transshipping bulk cargo (ship to ship). Indeed, Canadian shipowners have been global pioneers in unloader technology.

The Seaway system of locks and channels remains a crucial waterway on the continent, but historical statistics contain less positive news. In 1959, the Seaway handled about 25 million tonnes. By the late 1970s this had soared to 66 million tonnes.

But ever since, there has been a steady decline amidst changing world trade and transportation trends. In its heyday, the Seaway handled substantial volumes of grain, with Russia and Europe as large customers. This has not been the case for several decades as European markets declined and Canadian grain exports shifted to China. At the same time, ships on the oceans got bigger and bigger (unable to pass through Seaway locks), and competition grew from railways, coastal ports and the Mississippi system.

What do the 2008 figures show? Total traffic was down to 40.7 million tonnes from 43 million tonnes

in 2007. Grain cargo totaled 7.5 million tonnes versus the year-earlier 10.4 million tonnes. General cargo was down as well as steel imports from Europe continued to be weak. Holding their own were iron ore, coal and other bulk. At 4,267, there were nearly 200 fewer vessel transits.

The grain traffic problem was exacerbated by the decrease in ocean-going vessels entering the Seaway due to higher financial returns available from purely ocean voyages at current freight rates. These vessels could usually be counted upon to load grain from ports like Toledo and Duluth as a backhaul.

Initially, when the 2008 navigation season opened, Richard Corfe, president of the St. Lawrence Seaway Management Corporation, had cautiously predicted a 3 per cent growth in volume.

It was hoped that the Seaway, thanks to additional cargo incentives, would gain up to one million tonnes of new business. Here, expectations were not met although there was a bright spot in the first trial shipment by barge from Hamilton to Montreal of 68 containers of recycled metals destined for India and Pakistan.

In light of the global economic downturn in recent months that has evolved into a full-blown recession, the Seaway has entered uncharted waters in 2009.

Within such a challenging context, the Seaway authorities are resolutely maintaining an innovative approach to expand the waterway's potential as a continental trade corridor. New technology such as a hands-free mooring system through the locks should attract a wider range of vessels. The Great Lakes/Seaway waterway has emerged as a competitive means, in

*Seaway, cont'd on pg. 6*

## Smoothing Out the Lacey Act



construction timber ready for delivery

The following article was written by Robert DeCamp, director of regulatory affairs and consulting, A.N. Deringer, Inc. and member of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC).

The *Lacey Act*, enacted by Congress in 1900, is a federal wildlife protection law that combats the illegal commercial exploitation of wildlife and rare plants. Today, the Act prohibits the import, export, transport, sale, receipt, acquisition, or purchase of fish, wildlife, or plants in interstate or foreign commerce that were taken, possessed, transported, or sold in violation of state, tribal, foreign, or U.S. law.

The 2008 Farm Bill (Public Law 110-246), enacted on June 18, 2008, contained controversial amendments to the *Lacey Act* (last amended in 1981 when protection was extended to rare plant species). The recent amendments to the *Lacey Act* are intended to prohibit the import, sale, or trade of illegally harvested plants and plant products and are aimed, in particular, at the global illegal logging crisis. The definitions of “plant” and “plant prod-

uct” contained in the Act are so broad, however, that the amendments potentially impact a sweeping range of products imported into the United States, including lumber, fire wood, paper, wooden toys, children’s games, apparel, wooden buttons for clothing, and broom handles, just to name a few.

Current amendments to the *Lacey Act* now make it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken in violation of the laws of a U.S. state or any foreign law that protects plants. The *Lacey Act* also now makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant. In addition, the amendments make it unlawful to import certain plants and plant products without an import declaration. The declaration must contain, among other things, the scientific name of the plant, value of the importation, plant quantity, and name of the country from which the plant was harvested. For paper and paperboard products containing recycled content, the declaration must also include the average percentage of recycled content without regard for species or country of harvest.

In recognition of the challenges that the new requirements under the *Lacey Act* would impose not only on the trade community but also on government agencies, on October 8, 2008, the U.S. Department of Agriculture (USDA) published a notice in the *Federal Register* proposing a phased-in approach to implementation of the *Lacey Act* amendments. A revised notice taking into consideration comments received from the trade community was scheduled to be published in the January 23, 2009, *Federal Register*. The publication has been delayed for further review per a White House directive issued by the Obama ad-

ministration to stop pending rules until the new administration can review all policies. The following description of the proposed phased-in approach to implementation is based on the original notice published in the *Federal Register* and review of an advance copy of the revised notice. Because the revised notice has not yet been published, readers are cautioned that this information is subject to change.

Phased-in enforcement began on December 15, 2008, with a voluntary declaration period, where importers and exporters could submit a paper declaration. The remaining three phased-in periods of enforcement are scheduled to begin on April 1, 2009, through September 30, 2010, and each will be six months in length. The enforcement periods, which start with the more obvious items such as fuel wood, wood in rough, and wooden tool handles, will eventually cover paper and furniture, etc. The more complex the composition of the product, the more likely the product will fall into phase III or phase IV. For the most recent proposed schedule, please refer to the chart available on I.E.Canada’s website at [http://www.iecanada.com/industry\\_news/2009/Smoothing\\_Out\\_the\\_Lacey\\_Act.pdf](http://www.iecanada.com/industry_news/2009/Smoothing_Out_the_Lacey_Act.pdf).

At present, the enforcement of the declaration requirement should only apply to formal consumption entries (most commercial shipments). At this time, U.S. Customs and Border Protection (CBP) and the USDA do not intend to enforce the declaration for informal entries, personal importations, transportation and exportation entries, in-transit movements, carnet importations, and foreign trade zone and warehouse entries. The declaration requirements will not apply to the sundries that ordinarily accompany products, such as tags, labels, manuals, and warranty cards. CBP officials are currently attempting

## Expectations, cont'd from pg. 2

mission as governor of Arizona. Napolitano understands that the border must not become a competitive disadvantage for North American businesses. It was obvious during the visit to Canada that Napolitano appreciates that Homeland Security is more than just a law enforcement portfolio and that it also involves commercial and economic concerns.

In addition, the designation of Hillary Clinton as secretary of state provides a terrific advantage for Canada. As senator from New York, Clinton learned first-hand the importance of smooth and efficient border management to the economy of the upstate region in particular. She has also spent considerable time in Canada and understands the magnitude of the bilateral commercial relationship, the U.S. energy dependence on Canada, and the social fabrics that bind our two countries and cultures. Most importantly, Secretary of State Clinton understands the crucial role that Canada can play on the world stage in furtherance of our common values of peace, democracy, prosperity and stability around the world.

If the recent telephone conversation that took place between President Obama and Prime Minister Harper is any indication, there is obvious interest on both sides of the 49th parallel for renewed bilateral cooperation. Among other things (including Canada and U.S. missions in Afghanistan and President Obama's upcoming visit to Canada), the two have the troubles facing the North American auto industry at the top of their minds. President Obama's decision to visit Canada and the obvious commitment of governments on both sides of the border to adopting a collaborative approach to the auto crisis can indeed be interpreted by Canadians as the beginning of a renewed era for Canada-U.S. relations. It is now up to Canada to determine how it will receive the new president and how

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A shot of the Capitol on Inauguration Day. The Canadian flags in the foreground hang from the Canadian Embassy. (Photo courtesy of Betsy Hegg)

### I.E.Canada's Trip to Washington

I.E.Canada's board of directors has urged the association to plan a Washington Advocacy Day in March 2009.

The mission for the two-day visit to the U.S. capital is to develop relationships with key decision-makers in Washington, D.C., to promote North American competitiveness through harmonization of systems, standardization of processes, and coordinated investment in customs and border infrastructure.

I.E.Canada's board of directors has identified the following reasons for the association's Washington Advocacy Day:

- Canada needs to ensure that its voice is heard with respect to U.S. customs issues to ensure exporters can readily ship goods south of the border. Indeed, U.S. Customs and Border Protection (CBP) programs directly affect Canadian companies that export to the United States.
- It is essential that Canada's issues and concerns are part of the U.S. agenda.

- I.E.Canada needs to convey the importance of the harmonization of policies relating to border security, customs, and transportation infrastructure, which would help to strengthen trade between Canada and the United States.
- It is critical that the association comments on new U.S. programs that affect Canadian companies shipping goods to or through the United States.
- I.E.Canada should build relationships with contacts in the U.S. to emphasize the importance of standardizing processes.
- I.E.Canada needs to draw attention to the reality that capacity and congestion are significant issues at the northern border.
- The association should point out the competitive advantages that can be gained if Canada and the United States work together to strengthen North American competitiveness.

If you would like to take part in I.E.Canada's visit to Washington on March 24 and 25, please contact Mary Anderson, president of I.E.Canada, at [manderson@iecanada.com](mailto:manderson@iecanada.com).

## Lacey Act, cont'd from pg. 4

to modify their Automated Commercial System (ACS) to collect the data required by the declaration. They intend to have the system updated by April 1, 2009, so that they can begin collecting the declaration electronically for the second phased-in period.

USDA officials have commented that they will be unable to address some of the unanswered questions until June at the earliest. These outstanding issues include the definition of common food crop and common cultivar, whether rayon will be subject to the declaration requirements, and whether there will be a *de minimus* provision.

A copy of section 8204 of the Farm Bill, HR 6124, is available at [http://www.usda.gov/documents/Bill\\_6124.pdf](http://www.usda.gov/documents/Bill_6124.pdf). (Pages 1066 through 1076 pertain to the *Lacey Act*.)

A species list of common and scientific names is available at: <http://plants.usda.gov/classification.html>.

The USDA – APHIS *Lacey Act* website is available at: [http://www.aphis.usda.gov/plant\\_health/lacey\\_act/index.shtml](http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml).

*On day one of our Western Canada Conference, join us for the U.S. Customs update, which begins at 10:15 a.m., and you will learn more about the implementation of the new declaration for all imports of plants and plant products under amendments to the Lacey Act. The two-day event will take place in Calgary on February 23 and 24, 2009. For details, please visit [www.iecanada.com](http://www.iecanada.com).*

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### Seaway, cont'd from pg. 3

more and more instances, for moving project cargoes such as wind turbines and oil sands equipment. Besides offering much available capacity, the Seaway also represents an environmentally-friendly alternative to congested road networks. In short, the strategically-located waterway's long-term future does not exclude a growth scenario driven in part by increased shortsea shipping activity.

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### Food Forum, cont'd from pg. 1

the Canadian retailer's obligations and expectations of manufacturers and government during a product recall.

Canadian Food Inspection Agency representatives will also describe their role and expectations of the various players in the supply chain when a product is pulled from the market, including the information manufacturers and importers must provide.

Linda Smith, executive vice-president, Fleishman-Hillard Canada, will provide guidance on how to communicate with your customers, employees, and government should you have a product recall.

Joanne Allen, senior associate principal, manufacturing quality, Kraft Canada, will discuss industry's responsibility to manage and label allergens in foods. Undeclared allergens are one of the leading causes of food recalls in Canada. Joanne will address the legal requirements for labelling allergens in Canada and Kraft Canada's best practices, both domes-

tically and globally. She will also walk you through the steps you need to take to verify that your products are either free of allergens or properly labelled.

During the second half of day two, you will participate in a hands-on exercise with other delegates to practice what you've learned. In partnership with your workshop colleagues, you will execute a mock food product recall based on business and product information that you will be given. In this way, you will learn about the actions you will need to take to plan and prepare for a food product recall as well as how to execute one effectively. Once you return to your office, you will be able to put in place a product recall plan and conduct a product recall.

For more information about day two's recall workshop or the entire food forum, please visit: [www.iecanada.com/events.html](http://www.iecanada.com/events.html).

If you have questions, please call Jesse Arsenault, conference coordinator, I.E.Canada, at 416-595-5333, ext. 37, or send an e-mail to: [jarsenault@iecanada.com](mailto:jarsenault@iecanada.com).

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it wants to shape the future of our cooperation.

*The CAB is the premier voice of the Canadian American business community in Washington. Established in 1987, the Council is a non-profit, issues-oriented organization dedicated to elevating the private sector perspective on issues that affect our two nations.*

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