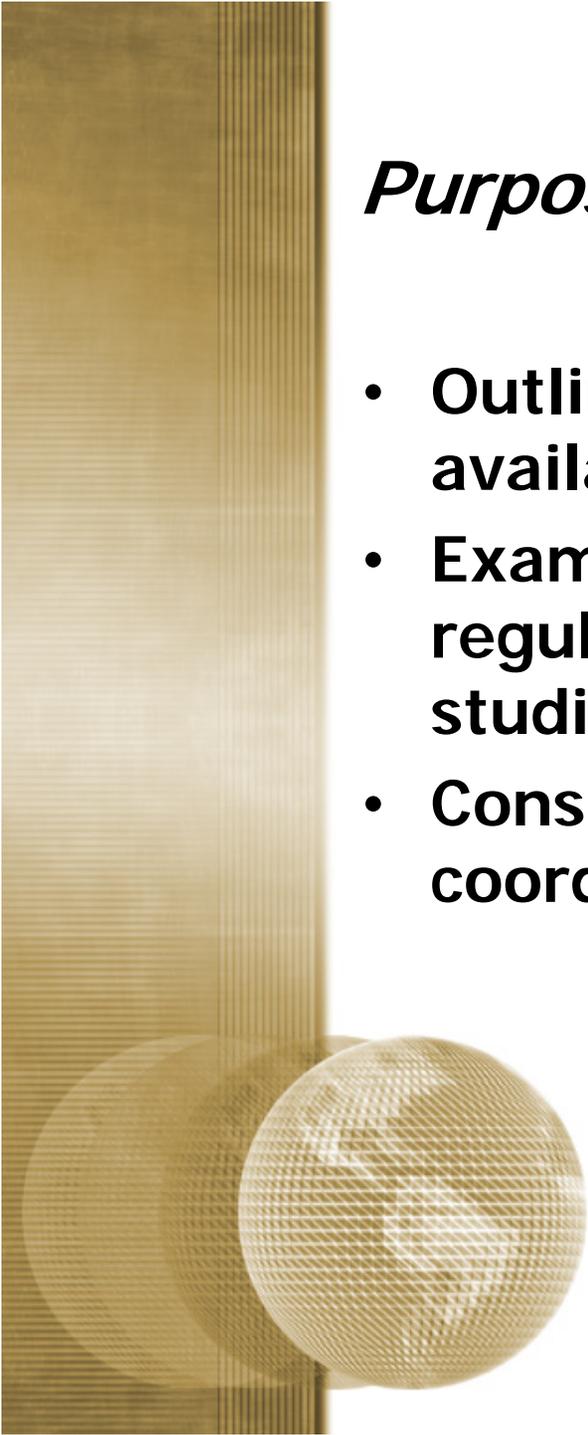


The background features a textured, golden-brown surface. Overlaid on this are several overlapping spheres. The most prominent sphere in the foreground is covered in a white grid pattern, while the spheres behind it are semi-transparent and show a similar grid pattern. The text is positioned in the upper left quadrant of the slide.

Approaches to Regulatory Coordination Mechanisms

**Tina Green, Lynne Hanson, Ling Lee,
Héctor Fanghanel, and Steven Zahniser**

**Presentation to:
North American Agrifood Market Integration Consortium
2005 Workshop -- San Antonio, Texas, 4-6 May 2005**

A decorative vertical bar on the left side of the slide, featuring a textured, golden-brown sphere at the bottom. The bar has a vertical gradient and a fine, grid-like texture.

Purpose

- **Outline regulatory coordination mechanisms available to NAFTA members**
- **Examine performance of NAFTA member regulatory coordination through case studies**
- **Consider areas where regulatory coordination could be improved**

NAFTA has had a significant impact on North American agri-food market integration

- Rest of North America is the most important export market for each NAFTA country
- Between 1990 and 2004, exports to North America
 - ❖ increased 162% for US
 - ❖ increased 266% for Canada
 - ❖ increased 141% for Mexico*

Agriculture and Food Exports to Rest of North America

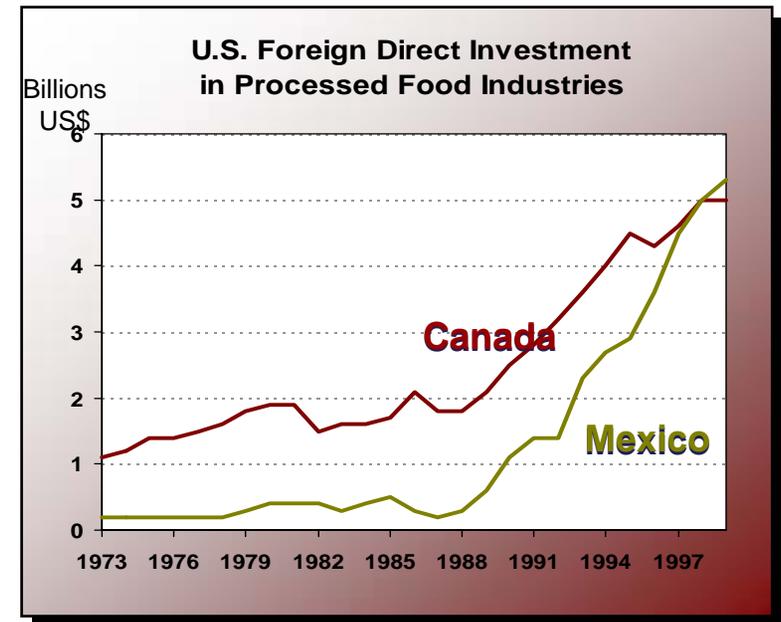
Average 2000-2004	US\$B	Market Ranking	% of Total Exports
	13.7	1 st	67%
	17.1	1 st	29%
	7.1	1 st	85%

Note: 2000-04 avg., with the exception of Mexico, 2000-03 avg.

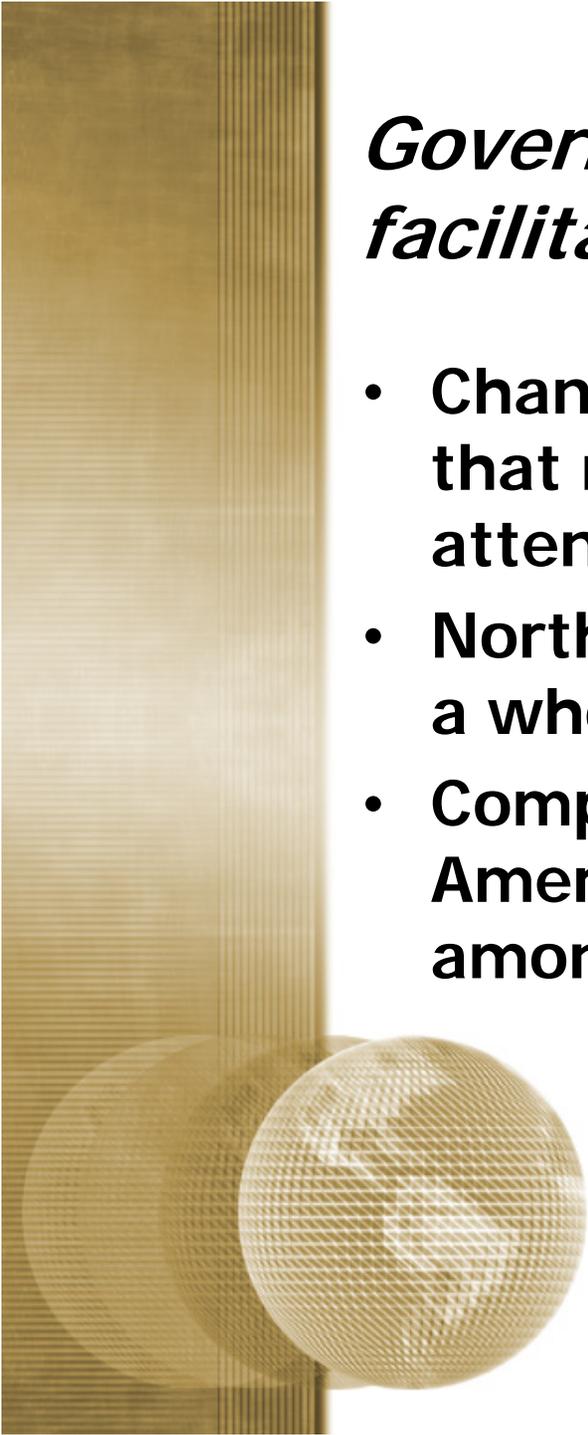
** For Mexico: 1990–2003 to the U.S. only.*

Industry has taken advantage increased efficiencies through increased FDI

- **Industry increased ownership linkages, as they shifted from national to continental supply chains**
- **Substantial portion of the agricultural and food industries has become an integrated production complex**

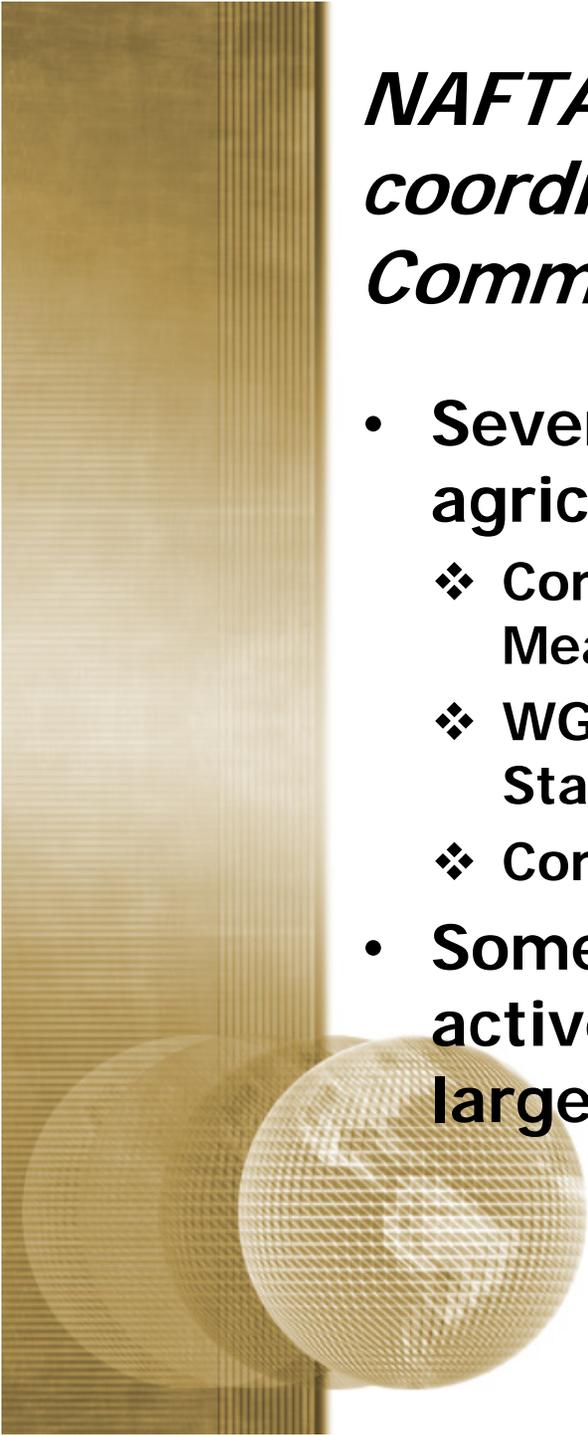


Source: Bureau of Economic Analysis, USDA, ERS.

A decorative vertical bar on the left side of the slide, featuring a textured, golden-brown surface with vertical lines. At the bottom of this bar is a globe with a similar textured, golden-brown surface, partially overlapping the bar and the white background.

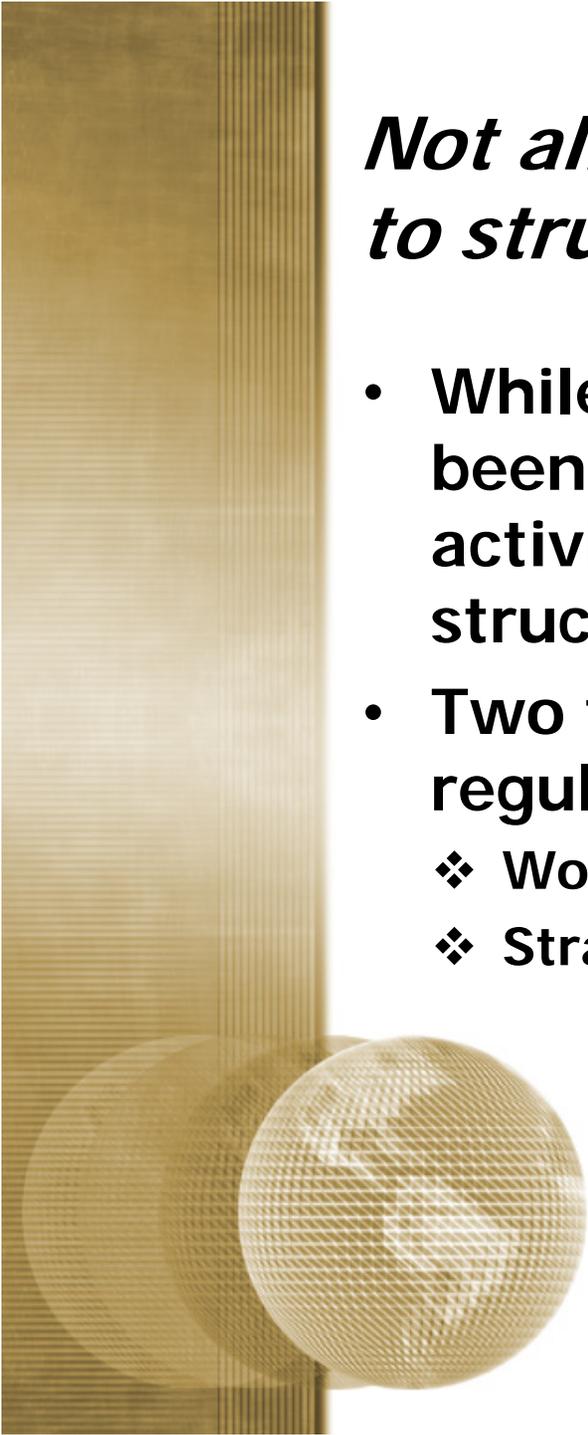
Government plays a key role in facilitating integration

- **Change in cross-border trade has required that regulatory issues be given greater attention**
- **North American food processors must meet a whole host of regulations**
- **Competitiveness within and outside North America depends on regulatory coordination among NAFTA governments**



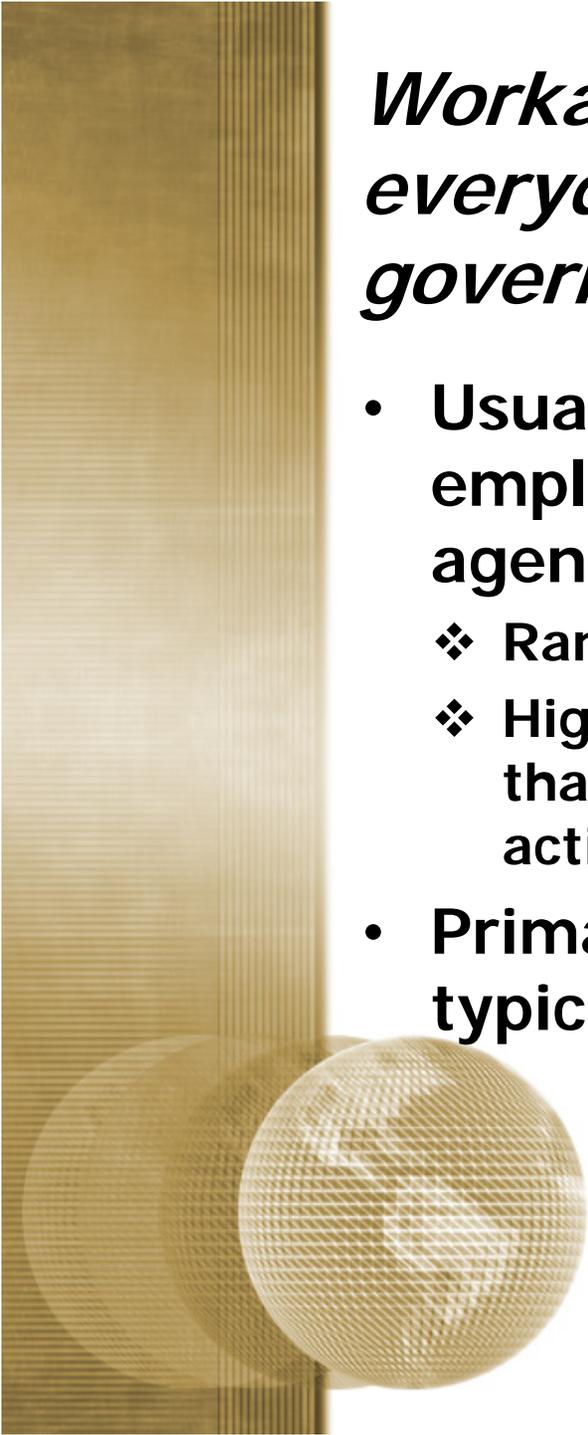
NAFTA envisioned that regulatory coordination would take place through Committees and Working Groups

- **Several of these entities directly concern agricultural and food sectors**
 - ❖ **Committee on Sanitary and Phytosanitary (SPS) Measures**
 - ❖ **WG on Agricultural Grading and Marketing Standards**
 - ❖ **Committee on Agricultural Trade**
- **Some Committees and WGs have played an active role while others have remained largely dormant**

A decorative vertical bar on the left side of the slide, featuring a textured, golden-brown sphere at the bottom. The bar has a subtle grid pattern and a gradient effect.

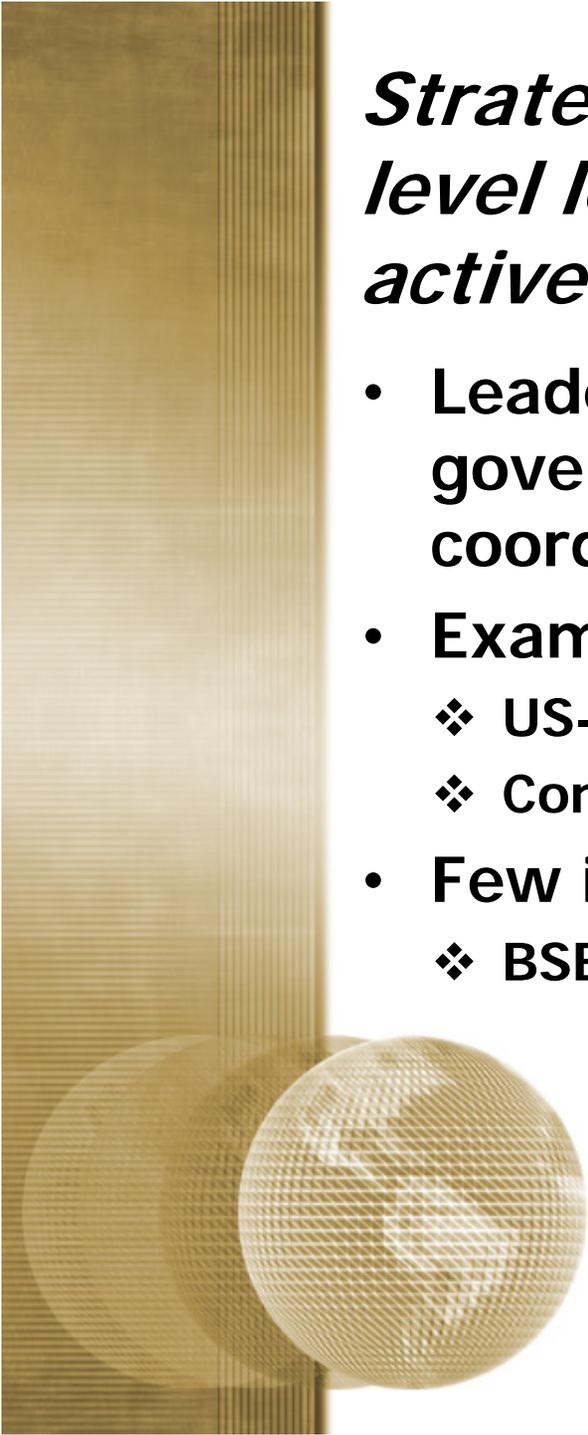
Not all regulatory challenges are suited to structure as laid out in agreement

- **While the formal Committee structure has been used to address some issues, many activities have taken place outside this structure**
- **Two types of alternative venues for regulatory coordination can be observed:**
 - ❖ **Workaday cooperation**
 - ❖ **Strategic bilateralism**



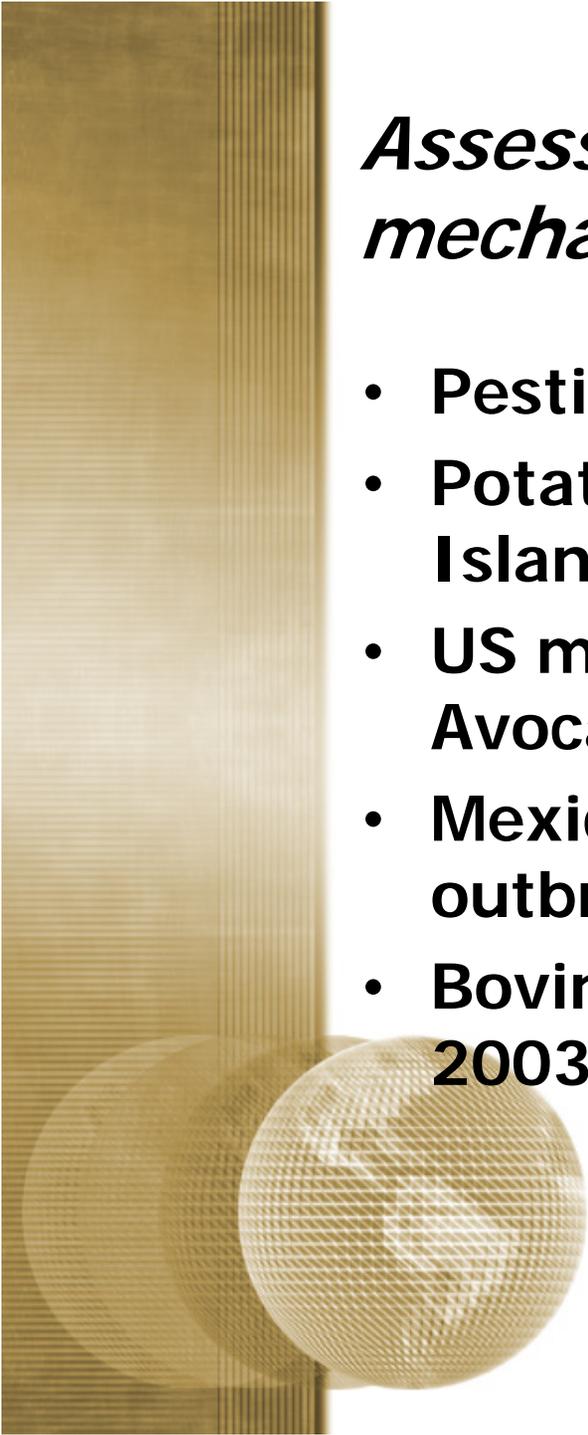
Workaday cooperation is part of the everyday activities of NAFTA governments and their employees

- **Usually involves coordinated activities of employees within government regulatory agencies**
 - ❖ **Rank-and-file staff and mid-level managers**
 - ❖ **High level leadership only involved to the extent that participation is part of normal day to day activities**
- **Primarily bilateral in nature as the issue will typically only directly concern two countries**



Strategic bilateralism enables high-level leadership to assume a more active role

- **Leaders from highest levels of two national governments directly involved in regulatory coordination**
- **Examples include:**
 - ❖ **US-Canada ROU (1994) and MOU (1999)**
 - ❖ **Consultative Committees on Agriculture (CCA)**
- **Few instances of strategic trilateralism**
 - ❖ **BSE is one example of strategic trilateralism**

A decorative vertical bar on the left side of the slide, featuring a textured, golden-brown sphere at the bottom. The bar has a subtle grid pattern and a gradient effect.

Assessing the effectiveness of available mechanisms through case studies

- **Pesticide regulatory coordination**
- **Potato Wart outbreak in Prince Edward Island, Canada in 2000**
- **US market access for fresh Mexican Hass Avocados – from 1914 - present**
- **Mexican cantaloupe and Salmonella outbreaks 2000-2002**
- **Bovine Spongiform Encephalopathy (BSE) 2003 - present**

Pesticides

- **Cross-country differences in how pesticides are regulated**
 - ❖ Perception that the Canadian pesticide approval process is more cumbersome than that of the US
 - ❖ Mexico has tended to follow the lead of its NAFTA partners
- **SPS Committee Technical Working Group (TWG) on Pesticides established in 1996 to resolve trade irritants around differences in pesticide regulation**

NAFTA TWG very active in coordinated action for pesticide regulation

- **Goal is to promote harmonization and work sharing as a means to reduce costs**
- **TWG has actively engaged government, regulatory agencies and industry**
- **Transparent about communicating information**
- **Most efficient tool developed is the joint review**

TWG working to expand efforts with Mexico and internationally

- **Traditionally many projects have involved Canada and the US as a result of bilateral work that preceded NAFTA**
- **Working toward greater Mexican involvement**
 - ❖ **First trilateral review to be completed by summer 2005**
- **Harmonization being pursued by OECD**

NAFTA TWG on Pesticides good example of effective WG ...

- **Workaday interaction product of technical work and cooperative approach**
- **Work sharing important and innovative practice**
- **Developing a NAFTA approach to pesticide regulation**
- **Recognition that harmonization improves competitiveness within North American marketplace and in third markets**

Potato Wart

- **A quarantine pest that renders potatoes unmarketable and reduces yield**
- **Trade disruption following the discovery of potato wart in 2000 in a single field in Prince Edward Island, Canada**
- **Dispute escalated as a result of failure to resume trade following containment mechanisms put in place by CFIA**
- **Canada initiated consultations through formal dispute resolution mechanism provided by NAFTA**

Challenges to resolving the potato wart issue

- Perishability of product required quick resolution to dispute
- Threat from disease required that all parties be satisfied with the control measures in place to mitigate risk
- Industry may be under pressure from over-production
 - ❖ Surplus of potatoes in North America at the time of the 2000 outbreak

***Workaday and high-level efforts
required to resolve dispute***

- **No disease monitoring system in place at the time of the 2000 outbreak**
- **Dispute resolved through the efforts of bilateral technical working group and strong political negotiation**
- **Less formal workaday approach allowed technical experts to develop a solution outside the political realm**
- **Strategic bilateralism ensured the issue maintained a high level of visibility**

***Science and effective communication
key to resolution***

- **Developing a risk-based protocol was the key to gaining US confidence that the disease was contained**
- **Able to regionalize issue**
- **Benefited from solid Canada-US relationship at the technical and political levels**
- **Subsequent discoveries in 2002 and 2004 resulted in minimal trade impact**

Mexican Hass Avocados

- **US banned the import of fresh avocados from Mexico after the detection in 1914 of avocado pests not present in US**
- **Repeated attempts to lift the ban were unsuccessful**
- **NAFTA provided the opportunity for Mexico to re-open the issue**
- **Extensive technical negotiations resulted in a published rule in 1997 to allow restricted import of Mexican avocados**
- **In November 2004, APHIS published a rule to further ease restrictions**

California avocado producers have resisted easing of trade restrictions

- **Valid concerns about pest infestation, but economic considerations a factor**
 - ❖ **Economic assessment for rule estimates losses of \$71.4 million for California avocado producers**
- **APHIS received numerous comments related to market share during comments period on rule**
- **At the same time significant positive economic gain for consumers**

Process to gain access has been gradual and lengthy

- Mexican producers perceived the sanitary restrictions as a non-tariff barrier
- Mexico did not use dispute resolution
- Some effort to address the dispute within the framework of the SPS Committee
- US and Mexican regulators worked together to develop science-based mitigation system
- Featured workaday cooperation for technical expertise and high level leadership to ensure issue remained a priority

Mexican Cantaloupe

- In the spring of 2000, 2001 and 2002 outbreaks of *Salmonella* occurred as a result of individuals in the US and Canada eating cantaloupe imported from Mexico
- In 2000 and 2001 the FDA placed Import Alerts on specific shippers and growers whose melons were linked to outbreaks or were contaminated
- Mexican regulatory authorities and the FDA began to develop a certification program following the 2000 and 2001 outbreaks

Balancing trade commitments and consumer safety

- **The outbreak in 2002 led to an Import Alert on all Mexican cantaloupe despite outbreak being traced back to producers in just two states**
 - ❖ **FDA justified ban as preventative measure**
 - ❖ **CFIA took similar action**
- **Timing of the ban was damaging to Mexican producers in the midst of their harvest, as well as US distributors who were unable to navigate new requirements**

NAFTA and WTO Agreements protect sovereignty around SPS issues ...

- **Countries have the right to protect human, animal or plant life**
- **But cannot be used to treat a country differently**
- **Following total ban, Mexico brought the issue to the WTO SPS Committee**
 - ❖ **Primary complaint from Mexico was the lack of communication between US and Mexican officials**
 - ❖ **Also felt there were inconsistencies**

Issue too important to be resolved by workaday cooperation alone

- **Prior to 2002 outbreak, US and Mexico were engaged in workaday cooperation**
- **Stakes became higher with 2002 outbreak, requiring high-level leadership**
- **Good collaboration but need to further streamline requirements**
 - ❖ **Federal Recognition Program (FRP) agreement to provide clearer process for documenting food safety**

Bovine Spongiform Encephalopathy (BSE)

- **BSE detected in Canada in May 2003 in an Alberta cow**
- **Upon confirmation of the positive BSE case over 40 countries, including the US and Mexico, placed import restrictions on Canadian cattle, beef and other bovine products**
- **Canadian Animal Health Coalition estimates total economic impact from BSE at Cdn\$6.3 billion by early 2004**

Canada acted swiftly to protect human and animal health

- **The CFIA initiated an epidemiological investigation**
- **Canada took additional risk measures**
 - ❖ **Invited an International Team of Experts to participate in the investigation and to make recommendations**
 - ❖ **Canada acted on all four key recommendations**

Science-based approach is the key to regaining market access

- **Extensive technical and scientific discussion between Canada and the US resulted in the development of a minimal risk rule**
- **US published rule January 4, 2005**
 - ❖ **When implemented, the rule will provide the necessary authority to re-open the border for Under Thirty Month (UTM) cattle and some classes of other young ruminants**
- **Requirements are considered to provide the utmost protection to US consumers and livestock, based on science**

Also working to establish more scientifically-based global rules

- **World Animal Health Organization (OIE) acknowledged some trade bans are inconsistent with OIE guidelines and standards**
- **Canada/US/Mexico working together to influence OIE to update guidelines on BSE**
- **Encourage a more practical, risk-based approach to BSE**
- **Canada continues to make progress in gaining access to other markets on the basis of science-based risk management system**

Protracted interaction at every level to resolve the issue

- **Workaday cooperation needed to develop the technical protocols**
- **Importance of issue requires high-level political involvement**
- **Strategic trilateralism given importance of BSE detection on entire NA beef market**
- **One significant obstacle for the normalization of trade is certain US cattle producer interests**

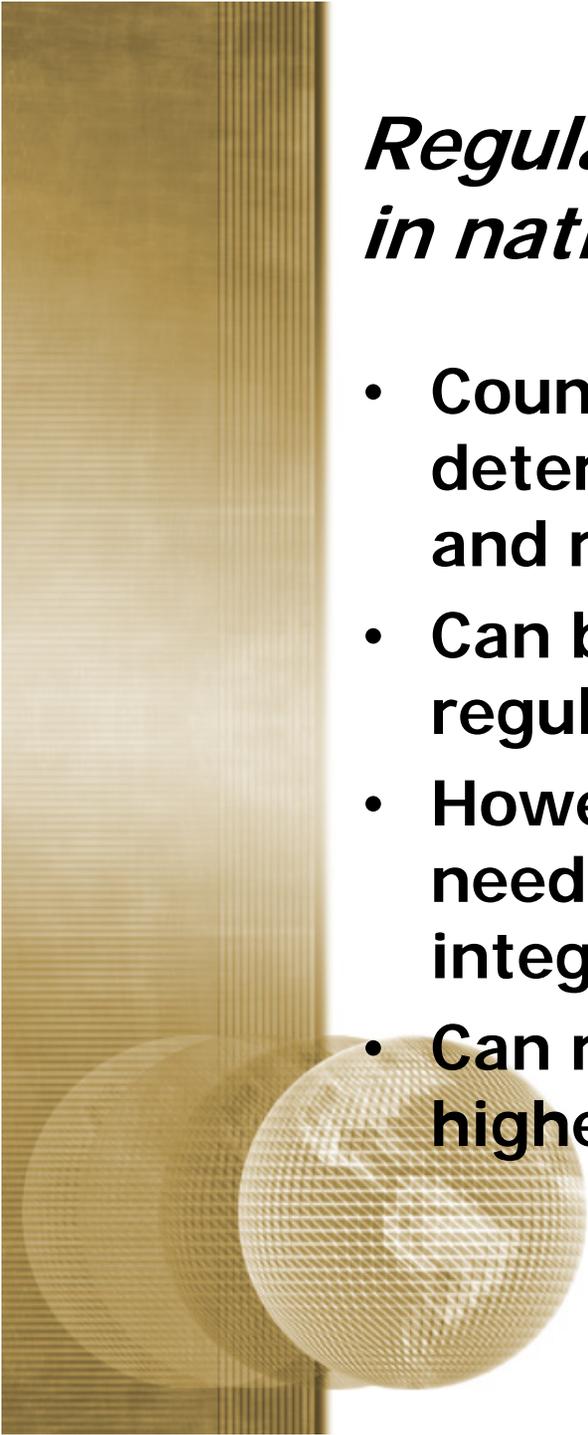
...

Consequences for integration

- **Prior to the detection of BSE in 2003 and 2004, the North American cattle market had become highly integrated**
- **Prolonged border closure has disrupted North American beef and cattle sector, making it much less efficient**
- **May have discouraged cross-border integration in other sectors**
- **Weakens North American ability to get back into third markets**

A decorative vertical bar on the left side of the slide, featuring a gold-colored background with fine vertical lines. At the bottom of this bar, two overlapping spheres are visible, both with a gold-colored, textured surface.

Conclusions ...



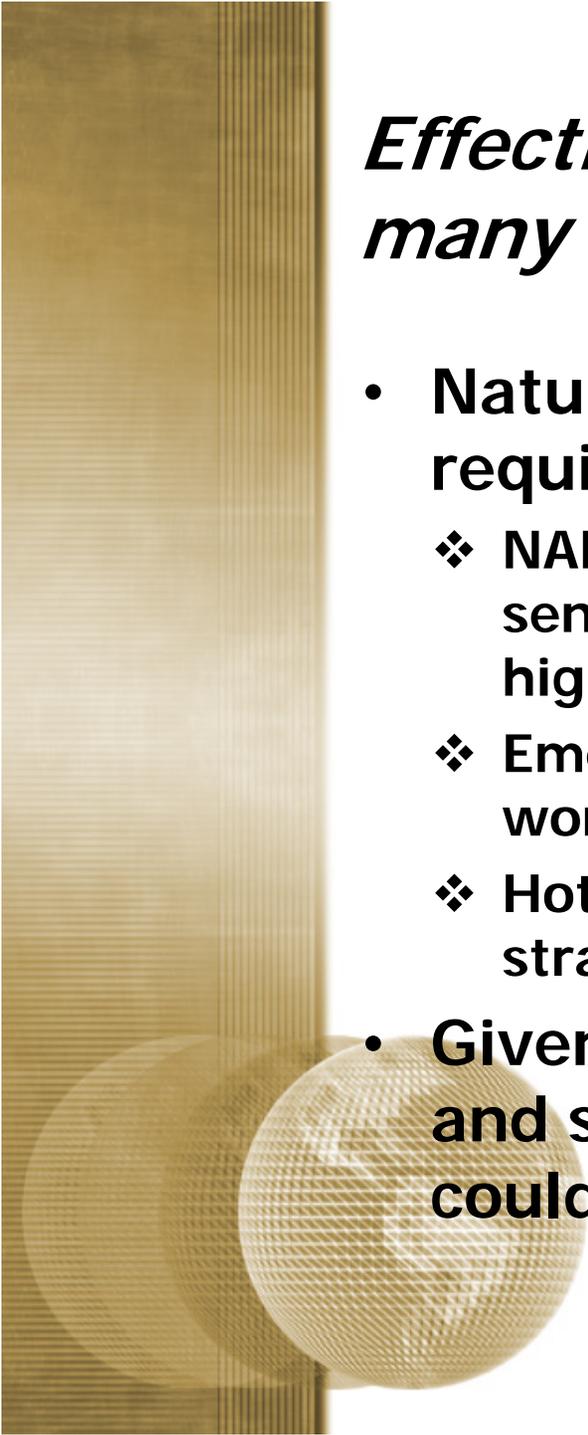
Regulatory coordination is an exercise in national sovereignty

- **Countries have the right / responsibility to determine appropriate level of protection and regulation needed**
- **Can be legitimate reasons for different regulations and standards**
- **However some regulatory differences cause needless frictions to trade and market integration**
- **Can result in less efficient industries and higher costs to the consumer**



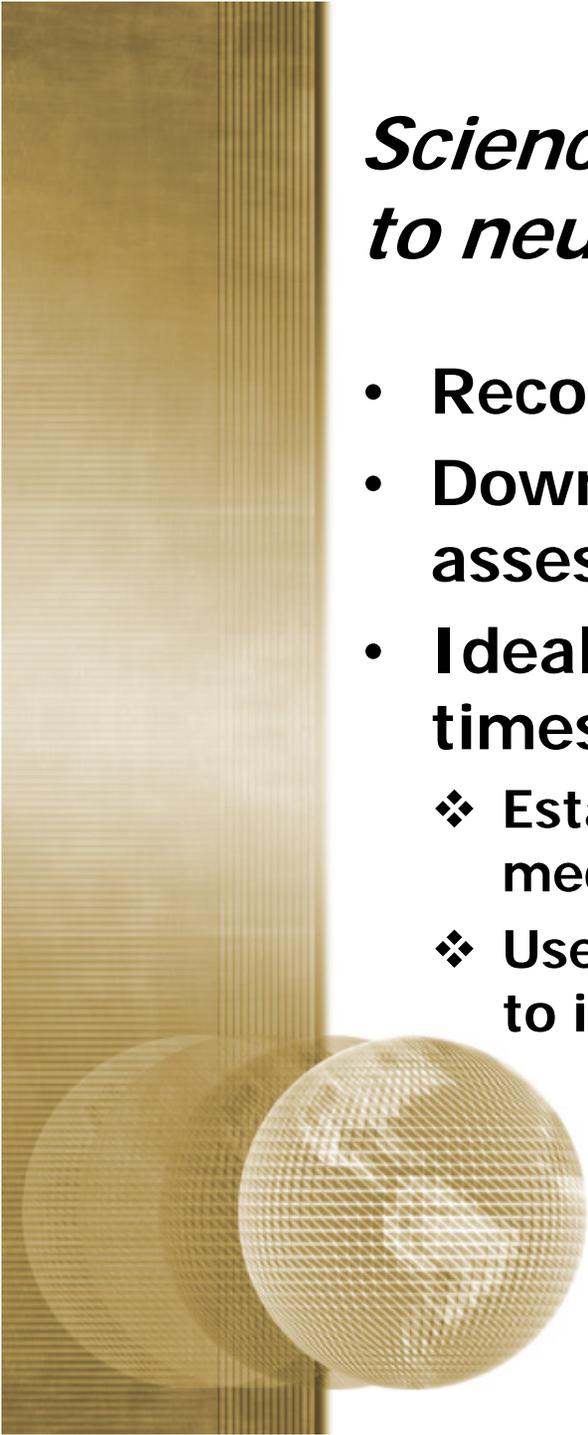
Regulatory coordination likely to rely on similar mechanisms moving forward ...

- **Desire for autonomy makes creation of enhanced NAFTA Secretariat or supranational entity unlikely**
- **Appointing high-level official to lead efforts consistent with strategic bilateralism**
- **Need greater flexibility in establishment / maintenance of committees and WGs**
- **Implement best practices to increase effectiveness of committees and WGs**



Effective coordination requires effort at many different levels ...

- **Nature of the issue dictates mechanism required to be effective**
 - ❖ **NAFTA committees work well when political sensitivity is low and need for technical ability is high**
 - ❖ **Emerging bilateral issues often resolved through workaday cooperation**
 - ❖ **Hot button issues often require a combination of strategic bilateralism and workaday cooperation**
- **Given importance of workaday cooperation and strategic bilateralism best practices could also be useful outside NAFTA entities**



***Science based risk mitigation systems
to neutralize narrow interests ...***

- **Recognition of mutual benefit of trade**
- **Downside that science-based risk assessment can be used as a delay tactic**
- **Ideally develop science-based systems in times of “calm”**
 - ❖ **Established protocols and coordination mechanisms can be easily employed**
 - ❖ **Use less restrictive measures to minimize the risk to importing country**

***... and minimize trade
disruptions***

A decorative vertical bar on the left side of the slide, featuring a textured, golden-brown sphere at the bottom. The sphere has a grid-like pattern and is partially obscured by a larger, semi-transparent sphere behind it. The bar itself has a vertical gradient and a fine, repeating pattern.

From Negotiation to Collaboration ...

- **Coordination can feel like negotiation**
- **Move beyond negotiation and engage in joint projects and other cooperative activities**
- **Canada-US-Mexico: Security and Prosperity Partnership of North America**
 - ❖ **Includes commitment to improve productivity through improved regulatory cooperation**