

# TRILATERAL BORDER ISSUES SYMPOSIUM

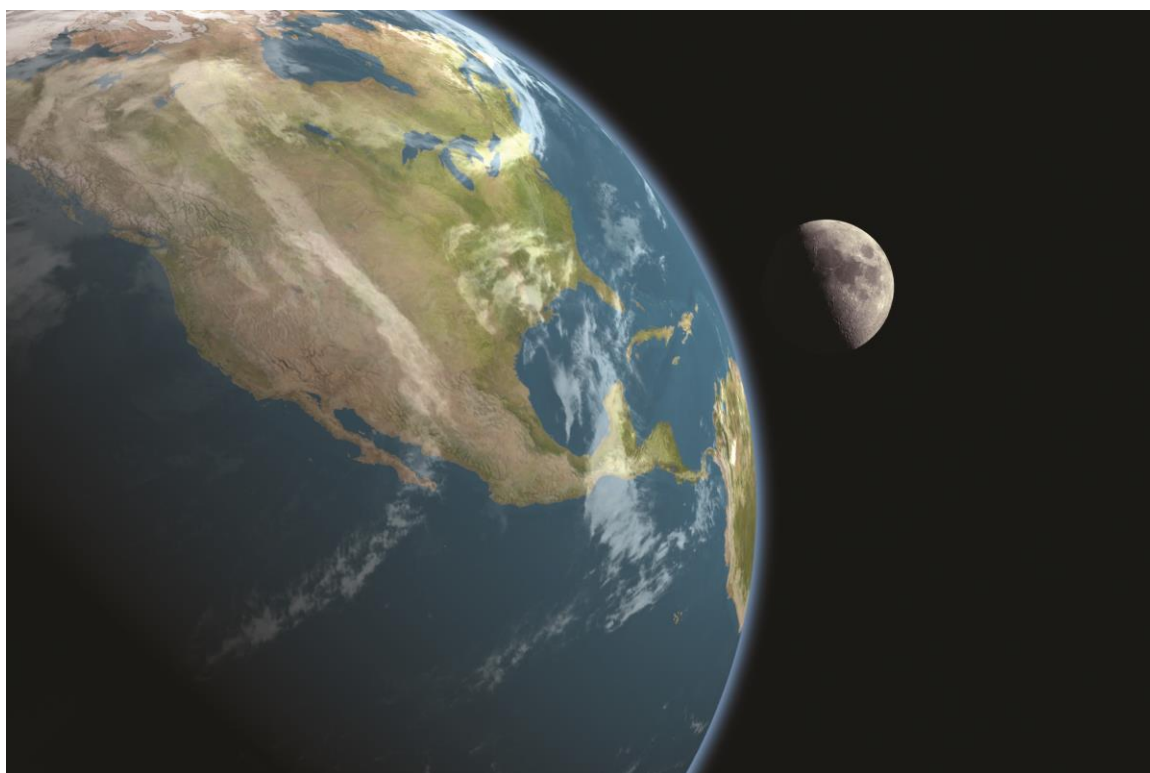
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ARIZONA STATE UNIVERSITY

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## Executive Summary of Findings and Synopsis of Recommendations

### D. Rick Van Schoik

“Billion dollar bills are left strewn at the approaches to the internal land ports of entry”

“This report and the recommendations herein reflect the interpretation and perspective of the author,  
Rick Van Schoik and/or NACTS”

The Trilateral Border Summit was hosted by the North American Center for Transborder Studies at Arizona State University and the School of Public Policy at the University of Calgary with sponsorship from Canadian Defence and Foreign Affairs Institute, Canadian Department of Foreign Affairs and International Trade, the Fresh Produce Association of Americas and the Canada Arizona Business Council. Together, commissioned papers and subsequent talks created the substance of the findings and the details of the recommendations presented herein. We thank both Ambassadors Doer and Jacobson and all authors/speakers for their attention and expertise presented here.

#### **The North American Century is before us:**

- We have enough energy to be self-sufficient including the oil sands, joint development in the Gulf of Mexico, and the prospect of directional drilling and hydrological fracturing yields from tight sources.
- Our economies are growing as the middle class in Mexico is expanding as the growth rates in all three nations recover from the global recession with Mexico and Canada leading the way.
- We are starting to recognize more and more that our security is a common security, and a common customs union and an external security perimeter are possible if not at the moment popular ideas.
- Near-shoring and back-sourcing of jobs and advanced manufacturing can sustain joint production, which has been the hallmark of North American competitiveness

**The premise of the meeting was to that North American competitiveness was jeopardized by the transactional costs of internal borders.** We believe an investment at the ports of entry rather than merely between them will return many times the initial investment for many years to come. One conference participant described securitization of the border as a “hysterical reaction to the events of 9/11” (Fry). The Council for Foreign Relations estimated a \$400 billion savings if we pursued the creation of a “seamless” North America. And NACTS estimates the cost of this seamless North America to be less than 1% of the value of trade.

**The advantage of proximity for just-in-time supply chains cannot be overstated** nor can the completely disruptive nature of a short or local delay. Not only is individual, corporate, and national productivity lost but so is economic and physical security. “An idling truck is a sitting duck” means the long waits and congested ports of entry are ripe for tampering with the lows by traffickers.

Second, even though the two smart/secure border accords had a number of common objectives there was no scorekeeper or scorecard to track progress. **We believe metrics are as important as the programs themselves.**

Third, part of realizing the value of trade and therefore the value of our neighbors is to **change the story about borders** and cast off the stereotypes of Canada and Mexico in the United States.

The conference participants realized and reiterated that just as “security was trumping trade” was replaced by “smart trumps security” it must now be replaced by “intelligent security can enhance trade”. This includes harmonization of risk management compatible information technologies and joint security operations.

We border practitioners, scholars and specialists need to win the argument, at the street level where the average citizen lives, about the benefits of trade, the overt success of NAFTA, and value of ports of entry, and how much productivity has been lost and how much efficiency can be recovered. The thought leaders accumulated at TBS urge reclaiming the story of the borders from the sensational press and media who only report the negative side of borders.

The message is simple: **As the U.S. and its neighbors seek to recover from the deep and persistent economic downturn they have no better bet than to jointly make and sell products to the world.** U.S. Ambassador to Canada David Jacobson underscored that export trade sustained 10 million jobs in the United States.

It's worth citing Ambassador Michael Kergin's new-found orientation to border security. He claims he was once “a skeptic of looking at border security from a trilateral perspective” but realizes “the nature of the threats confronting our jurisdictions may still differ somewhat but sufficiently commonality exists for all three to benefit significantly from a cooperative approach... a more integrated approach, fostering the sharing of new technologies, intelligence and best practices, can only contribute to a more efficient trade flows and by extension enhance North American competitiveness in a challenging global economy.”

**Our vision includes ideas once thought unimaginable.** At one time, NAFTA was a highly partisan issue but we now find broad support for it from all governors in Mexico, from both parties in the U.S. Congress, and from all major political parties in Canada. Just as an enhanced driver's license was unimaginable by some as a border crossing card we propose that those things which we recognize are not popular nor have political support but we see as necessary for the future of North America (such as a common customs union).

We take this opportunity to fully support the North American Leaders Summit (NALS) efforts towards a more secure and prosperous life for all of our citizens. North America already has too many bilateral agreements and **we encourage a North American “big bang” by 2020** and that you use NALS to announce it. No other mechanism exists for forceful action from the continent.

The opportunity to address the sequester, to move ahead on trans-Atlantic and Pacific trade partnerships, and to imagine what we might accomplish in another decade gives us the authors and participants at TBS the optimism to suggest ways to **recover the advantage of proximity to enhance our collective competitive place in the world marketplace.**

## SUMMARY OF RECOMMENDATIONS

Participants made the following **seven cross-cutting recommendations**/observations:

- Engage the local actor for optimum productivity
- Public-private partnerships (P3) are a key way to invest in ourselves
- Prevention, planning, preparedness, reaction, response and recovery (P3R3) from natural and human made disasters are the same
- Interoperable communications must be mandated
- Border revenue streams can be identified with minimal or no cost increase and potential savings
- Invest first in each other before looking to other world markets
- Encourage the role of universities as thought leaders and implementation action developers

A summary of the other specific policy recommendations, organized into **three domains: security, competitiveness, and energy** is provided below along with an identification of the level of government that has power to act. Trilateral coordination is implied in all recommendations.

DOMAIN AND ISSUE	RECOMMENDATION	ACTOR
<b>SECURITY</b>		
Terrorism threat	Truly move security away from the border by finding terrorists where they live and not at the border, a last line of defense	Federal
External perimeter	Establish a common external security perimeter that includes the whole continent	Federal
Joint risk assessment and management	Harmonize threat assessment and risk management	Federal
Border and port technology	Increase automation at border checkpoints.	Federal
Joint operations	Promote joint security operations, such as IBETS, Shiprider and mirrored enforcement.	Federal
Cyber attacks	The three governments should establish clear processes for sharing of information on cyber threats and identify specific targeted entities.	Federal
Intelligence sharing	Share real-time information and intelligence and use compatible	Federal

	information technologies	
P3R3	Expand joint prevention, planning, preparedness for and response, reaction and recovery from natural and human events	All levels
C4ISR	Use common frequencies to coordinate communications among law enforcement agencies on both sides of borders	All levels
<b>COMPETITIVENESS</b>		
Customs Union	Negotiate a common customs union that includes a common external tariff	Federal
Economic commission	Establish an economic commission to prioritize joint investment in our common future.	Federal
Port infrastructure	Dedicate investment in gateways and corridors and forge a continental plan for multi-modal transportation and infrastructure	All levels
Stop protectionism	Afford a “Buy North America” provisioning in all levels of government procurement	All levels
Joint investment	Authorize joint inter-jurisdictional powers that will enable full investment in needed infrastructure	All levels
Trade in services	Integrate services that we already trade (financial, healthcare, education, tourism, etc.)	All levels
Regulatory cooperation	Create a single North American working group on regulatory issues. Streamline a regulatory cooperation from four tracks to one	Federal
North America passport	Study creation of a North American passport and expansion of enhanced drivers licenses	Federal
Increase visas	Increase number and length of visas. Expand professional categories and skills included in NAFTA visas and extend the visa duration	Federal
Integrate locally	Allow local integration. States and provinces should be permitted by the federal authorities to negotiate cross-border business	Local

Cabotage	Permit cabotage on the east and west coasts of North America and the Great Lakes by bona fide North American shipping firms.	Federal
Labor mobility	Adapt immigration policies to a wider labor market.	Federal
Trust	Make anti-trust policies continental.	Federal
Invest in innovation	Adopt a North American Innovation strategy.	All levels
<b>ENERGY</b>		
Regulations	Harmonize environmental standards and fees for energy exploration, development and offsets.	All levels
Common energy market	Negotiate a new energy framework that can tap cold, deep, and tight reserves with environmental stewardship.	Federal
Joint compacts	Use inter-state compacts (ISC) to site, conduct environmental review and finance transmission and connection infrastructure.	All levels
Keystone	Approve the Keystone XL pipeline if only for its symbolism.	Federal
Cross-border connections	Improve the structure of electrical transmission fees so carriers have strong financial incentive to connect across borders.	All levels
Climate change	Enable North American trading on greenhouse gas emission reduction credit as voluntary offsets.	Federal



Ambassadors David Jacobson and Gary Doer address the participants at the Trilateral Border Summit



## 1.0 Scenarios from our past

Let me take you back to the month, weeks and days before 9/11 and our reaction to this event which created a securitization of the borders. In August of that year, in an attempt to try to keep the wait times as near the 40-minute average experienced during the rest of the year, during December private industry collected funds which were used to pay overtime for the port of entry agents in San Diego. In the week before a workshop attempted to identify strategies to reduce the wait time to a 20-minute goal thought reasonable by both sides. Privatizing some infrastructure and operations (but not authority and standards) was the primary recommendation. Finally in the days before the terrorist attack, Presidents Bush and Fox negotiated the “whole enchilada” or the framework for comprehensive immigration reform.

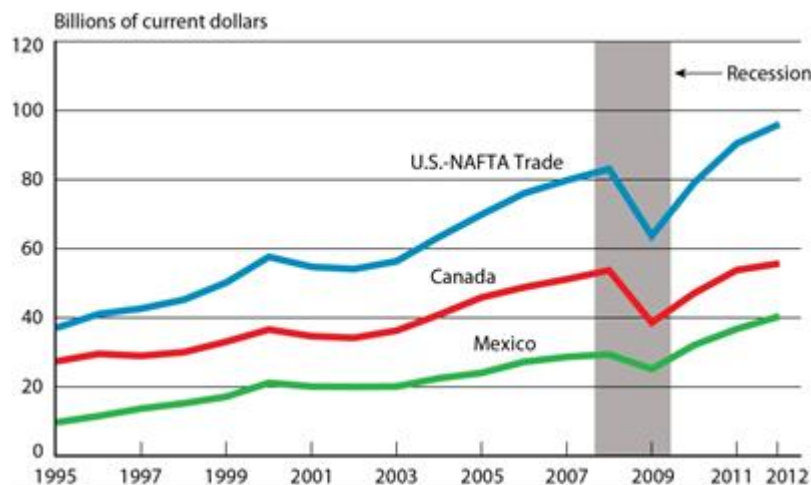
Then 9/11...

Securitization of the borders was oriented towards securing the often barren stretches between our more urban entryways to each other and our joint production and away from the forgotten necessity to facilitate flows at those ports of entry. Investment in the “three legs of the stool” (staff, infrastructure and technology) was dedicated to the open distances between ports rather than at ports.

## 2.0 Trade in the post, post-9/11 world

Now is the opportunity to define security as not only preventing the flow of illicit materials into all our any of the North American nations but towards that **common security found in our economic prowess.**

**Trade is grossly underappreciated and little understood.** The reality behind the National Export Initiative (NEI) is that exports create new jobs and sustain old ones. The NEI is on track to produce jobs not just in in the U.S. but in all three nations because each exports the others’ content. An estimated 14% of US GDP is due to trade, and a whopping 31% of Canada’s and 32% of Mexico’s is attributable to trade claimed U.S. Ambassador to Canada Jacobson. Near-shoring and back-sourcing after the exodus of jobs elsewhere has immediate, mid and long-term universally positive consequences.



Trade of services within NAFTA approaches \$100 billion per day after the setback of the recession

### 3.0 North America shares competitiveness, security, energy stability and sustainability

All this talk about border security before comprehensive immigration reform disses and misses many key policy points. The first is that security is *political* first and as *The Economist* recognized in a recent editorial “The border will never be truly secure and anything that smacks of making that a precondition risks becoming a way of ensuring that reform never happens.”

While she was Governor of Arizona, Janet Napolitano was fond of saying that if we built a fence she knew human ingenuity would construct a ladder that was a foot higher. Part of what she recognized was that the financial push and pull to get in and to smuggle and traffic things in was not easily overcome by border security operations.

Entering her second term as Secretary of Homeland Security, she knows more than anyone how ingenious the transnational criminals can be with tunnels, submarines, ultra-lights, quickly constructed bridges and even catapults.

Our investment in border security has worked as determined by overall trends and by almost any measures publically and privately available. Two gross measures are the number of apprehension and deportations. CBP reported far fewer irregular entries border-wide in 2012 (down to 85,000 from a high five years ago of over 600,000) and more are being caught and deported (a high of 400,000 in 2012). We are also catching more drugs, weapons, and cash that fuel much of the flow.

At the same time much-accelerated development in Mexico makes it more likely they can find education and training and a job at home. Mexico’s economy has grown faster than the U.S. economy every year of the last decade except one! We are helping Mexico fight its narco-violence and transnational criminal organizations by training Mexican cops, lawyers, judges, forensic scientists and, in a separate program, special operations soldiers. Finally, the cost and likelihood of success at being smuggled by a coyote has risen significantly.

But our investment in security has taken a toll. For the last, some say, “**lost decade**” we invested in the close-the-border mantra of staff, infrastructure and technology:

- doubling the green-shirted Border Patrol officers that have deterred, deflected, detected, and apprehended to the point that some may patrol all day long and not catch anyone sneaking through;
- building 650 miles of sometimes double fencing, walls and barriers; and
- integrating a range of different technologies, mostly radar, cameras, motion detectors, license plate and biometric readers each tailoring to the terrain and vegetation of that station and sector.

According to a recent report by the Migration Policy Institute in Washington, our \$18 billion investment in enforcing the laws of immigration to pursue both irregular crossers and visa overstays outweighs all other federal law enforcement including the FBI and Secret Service put together. We spent 50% more

on immigration enforcement in 2012 than in 2006. One researcher claims that we've invested over \$1 trillion (a million million) in security and defense.

I once asked Secretary Chertoff his definition of border security. He responded to our largely academic crowd with a scholarly answer of a high probability of knowing what is crossing and where and being able to respond to it and a higher probability of knowing what was going to cross next and where and an ability to respond to that.

We're well on our way there, but with a few exceptions. We know who and what is getting in (down to the last person from a nation of special interest) and where it's getting in (we've moved much of it to remote and inhospitable sections of the desert and mountains) and we are able to respond in depth from as far away as the farm, factory or foreign origin to miles inside at mobile check points that catch some of the drugs that otherwise get in.

**But what we have not invested in is our mutual economic security.** North America is the world's most productive bloc because we are close, we complement each other (what one cannot grow or make efficiently the other does), and we make and sell to the rest of the world. Because of the high level of U.S. content in products Canada and Mexico export to the world we were able to increase our exports massively during even the global recession. In other words our downturn would have been worse if it weren't for consumers in Canada and Mexico and for our collective competitiveness.



In a recent OpEd in the Wall Street Journal Robert Zoellick, who knows from experience as head of the World Bank, US trade representative, and deputy secretary of state, claims “Taking the lead on trade and open markets can enhance global security, opportunity and prospects for liberty”. He goes on to say the three NAFTA nations can gain the most from trade facilitation in “energy security, improved productivity, and an edge in manufacturing and other industries.”

Moving border operations away from the border to ease congestion at the border is slowly being accomplished. Things can move from the farm, factory or foreign source across our borders is pre-screened, inspected and approved.

To continue to be productive and competitive we need more staff, infrastructure, technology and communications capacity at land ports of entry and investment in intermodal facilities and corridors from rail, sea and air ports. We need to **maintain our edge by ensuring we can move things around the North American manufacturing base** with the ease we had pre-9/12 when we decided never another 9/11.

We share a history and a future. Our history is mostly bilateral (NATO, NORAD, North Command) but has integrated the third more and more. In 2003, already a decade old, NAFTA was still unpopular, but we were experiencing general prosperity. By 2013 persistent economic insecurity presents a fork in the road for a North America and its three nations as we can decide to decouple or to continue to promote joint production, more securitization or harmonization so that by 2023 we have achieved a truly free trade that NAFTA promised but was only able to deliver on reduction of tariffs.

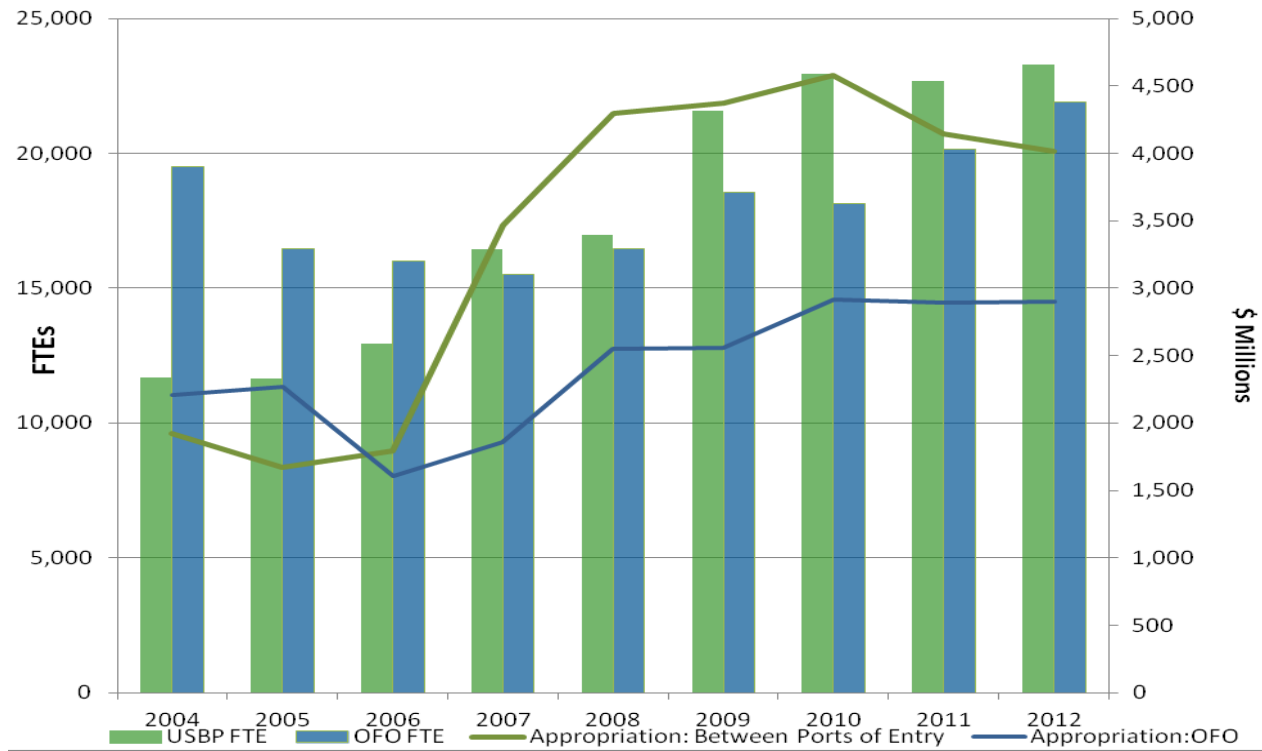
**NAFTA has been an unmitigated success** quadrupling and in some cases quintupling the amount of trade over 20 years to well over \$1 billion a day just with Mexico. Our recent history on the southern border includes three new crossings and the first railroad crossing in over 100 years, Mexico's inclusion in the global entry system known as GOES, and binational master plans for port of entry infrastructure planning and prioritization.

#### **4.0 The North American leaders can start afresh defining the continent**

The three young leaders have a voter and self-imposed mandate to create jobs and time. Prime Minister Harper has a majority government, President Obama has a second term and President Peña Nieto has an entire sexenio.

**North America is too big, amorphous, and obscure for most to identify with yet it is the economic bloc that matters most.** North America is actually 99 federated governments (three federal; ten provincial and three territorial; 31 Mexican states and one federal district; and 50 U.S. states and one more federal district) and innumerable local, tribal and municipal jurisdictions. They had an immense interest and knowledge about what would work across the border. What we have found over and over is that what the federal governments fragment through inattention or inability to adapt, the locals can integrate, a term called framegration.

Just as North America has had to shift from thinking east and west (highways and railroads) to north and south (trade, connective infrastructure) it must again shift back to east and west as each of the three nations together (Trans-Pacific Partnership or TPP) and separately as the three negotiate free trade agreements with the EU (the subject of a related paper). The three NAFTA leaders can adopt a unified approach to trans-oceanic trade. A NAFTA perspective affords harmonization of regulations to be streamlined north and south as well as east and west at the same time.



Investment trends between ports of entry (green) exceeds investment at the ports (blue)

Notes: Total appropriations between the ports include US Border Patrol and Fencing, Infrastructure, and Technology funding.

FTE: Full-Time Equivalent Source: Marc Rosenblum (Congressional Research Service), Testimony on Measuring Border Security before the Subcommittee on Border and Maritime Security, Committee on Homeland Security, U.S. Congress, May 8, 2012.

### 5.0 Situation and how we got such thick, sticky and dense borders

Only those who cross borders or live in the borderlands truly understand the dynamics of what is at stake there. As the below graphic from the Congressional Research Service depicts, both investment and staffing at the southern border especially between ports of entry has doubled if not tripled in what some described as a lost (productivity) decade. To accommodate this securitization United States Department of Homeland Security and its Customs and Border Protection agency responded with a number of programs to enroll trusted travelers and trusted shippers in precleared pre-inspected prescreen protocols. A secretive targeting score system allows fewer and less intensive inspections for those enrolled in the program and would enable enrollees to be the first back in line after alerts and

closures. These ensured that just-in-time supply chains could continue. These voluntary programs have a cost both in enrollment and annual leave validations. The current hope is that CBP can do “a better job of marketing the program and perhaps eliminating some to bureaucracy” (Glick).



Trinational panel outlines the basic issues focusing on the interdependent nature of economic success

### **6.0 Strategies and tactics abound but mechanisms and institutions are lacking**

Except for the formal Commission for Environmental Cooperation (CEC) and the informal North American Forum (NAF), North America has few formal means to promote its own good. Both are powerless. However, the North American Leaders Summit (NALS) is both powerful and formal and (through this paper) informed about border issues.

But the federal governments aren't the only actors in the borderlands. **Subnational actors including states, counties, tribes, municipalities are important integrators in many cases in which the federal governments have fragmented transboundary issues.** Successful transboundary organizations include the Pacific Northwest Economic Region, San Diego Association of Governments' borders committee, the British Columbia-Washington border incident communications protocol established during the Olympics, and others.

The final major actor which is becoming increasingly more important is the private sector. Public-private partnerships and identification of appropriate revenue streams to “operate” the border or pay for infrastructure may be the best evolving option.

#### 6.1 Critical infrastructure and its protection cross borders

Because both sides of both borders are so interconnected, protection of the infrastructure that is determined to be critical by the United States government necessarily includes assessment of the extensions to and from Mexico and Canada.

#### 6.2 Border security operations and infrastructure can be shared

Security operations both at and between ports of entry are described as risk-based but the threat, exposure and vulnerability assessment is unilateral when it could be jointly determined and thereby minimized, mitigated and managed in a trilateral manner.

#### 6.3 Energy integration is possible

The 2010 decade is a window of opportunity to reinvent North America around energy and to reinvent energy in North America as renewable. To cite, finance, and perform environmental review on transboundary infrastructure we suggest interstate councils (ISCs). By strengthening regulatory cooperation on exploration and development and climate change minimization, mitigation, a self-sufficient, interdependent North American energy sector is possible within five years according to various reports. To achieve this, the United States must approve the Keystone XL pipeline, and Mexico must permit some foreign investment in its energy sector. Together the United States and Mexico must jointly develop their transboundary carbon reserves in the Gulf of Mexico.

### **7.0 Metrics are needed to measure progress**

Just as the border is a system of systems and not a line we must think about systemic metrics as well as line, corridor or “retail” metrics. Since trade and security are complementary the systems approach makes absolute sense.

Ambassador Kergin asked two insightful questions and answered them. Why bother to measure? Because, one, we need to assure the population and the deciders and also the decliners that we can increase flow and still stem illicit flows. Second, because we want all our citizens to know that only domestic threats exist, that all migration is regular, that risk and not just the threat is being managed, and finally that we have trust and confidence in other jurisdictions.

The second question is how do we measure? First, we do this by defining and classifying illicit flows. It's things like terrorists and narcotics and not the ingredients in Cheerios or jellybeans. Second, it's by orienting success around the facilitation of trade and third, by lowering the profits of the transnational crime organizations.

“One broad measure of economic integrity is the degree to which North American companies have developed and deepened cross-border supply chains” according to economist Stephen Globerman. Another is clustering, and the value of goods and number of visitors crossing the border annually. Clustering is a phenomena based upon the auto zone of Michigan and Ontario of co-locating support activities and expediting communication from those locations to their counterparts in the other three nations which is being accomplished for aerospace and to a lesser degree renewable energy.

Another sometimes ignored metric is the number of people who die while traversing borders your regularly. As much as possible we should try to find ways to disconnect the constructed nexus between immigration and security.

While there have been calls for significant joint action towards expediting trade and securing the borders the penultimate measure is actual implementation of the various mechanisms and the ultimate measure is three-way trade. The primary actors are the Executive Steering Committees for Beyond the Border and 21st Century Border Interagency Policy Committees of the National Security Staff but coordination and consultation with local level or example the joint port of entry committees, joint infrastructure capital plans, cross-border resilience assessment programs, joint cyber security action plans, and border traffic disruption management guides.

## **8.0 Recommendations are immediately achievable with high return on investment**

**The first recommendation is to more broadly define security and to concertedly extend security away from the border to the farm factory or foreign source.** The border should be a last line of defense not the first as we find terrorists and other threats at their sources.

We propose neither the grandiose nor the platitude but recognize North America progresses through optimistic, pragmatic incrementalism that we hope can be accelerated and focused through this paper. As an example risk assessment in the past has been sovereignty-centered, war-focused, and historically embedded. In order to manage risk together we will need to first agree to assess risk together. This in turn means assessing our joint vulnerability and exposure and not just the overt threats.

The following cross-cutting recommendations are followed by ones in the security, competitiveness, and energy domains.

### **8.1 Engage the local actor for optimum productivity**

Fragegration is the term used to describe the ability of local actors to integrate what the federal actors have fragmented. Cities and states have a strong interest in making sure borders work well and can play a major role in both the border core door development as well as border resilience maintenance.

### **8.2 Public-private partnerships (P3) are a way to invest in ourselves**

The model established between the governments of Canada and Ontario to help fund the Detroit-Windsor Bridge with Michigan can be exported to other ports and other infrastructure projects. One from the southern border includes private sector investment from Mexico transferred to public agencies



in Arizona to add lanes to and from the Lukeville port of entry with a promise that the federal government would increase the hours available for access.

President Obama has suggested that border fees be imposed and most who cross the border recognize that time is money and are willing to pay for guaranteed crossing times and access to modern technology.

The trusted shipper and trusted traveler programs are examples of assurances of fewer and less intensive inspections for a moderate investment in the preclearance process.

8.3 Prevention, planning, preparedness, reaction, response and recovery (P3R3) from natural and human made disasters are similar

The ability of first responders, including law enforcement, to react with the latest intelligence and information regardless if the disaster is natural or human caused. Strong relationships need to be in place before an emergency or disruption occurs. Just as threat is not risk, response and recovery are different.

8.4 Interoperable communications must be mandated

Not only is there intra- and inter-jurisdictional advantage of being able to communicate on one side of the border but the ability to provide real-time intelligence to the other side will prove invaluable as evidenced by a number of international border enforcement teams or IBETs.

8.5 Border revenue streams can be identified with minimal or no cost increase and potential savings

When the U.S. highway trust system was adequately funded through gasoline, diesel and other transportation fuel taxes, the coordinated border infrastructure program provided federal funds for ports of entry in corridors. This was matched by an effort in Canada with federal and provincial funding. Even Mexico stepped up its investment in ports during the colder own administration.

While still controversial many of the participants at TBS recommended identification and tapping of revenue streams to fund infrastructure, technology and even staffing. Such funding includes user fees, congestion pricing, and other incentives to encourage more efficient use of limited resources.

Just as UPS and FedEx pay airports and seaports for access to government facilities to facilitate the flow of just-in-time delivery, access to land ports of entry must be paid for as well.

8.6 Invest first in each other before looking to other world markets

Many development banks and investors realize investment is no longer strictly from the richer nation to the developing nation. Mexico invested twice as much outside Mexico as foreigners invested in Mexico. If we recognize that we can invest in each other's productivity--for example in inland ports and multi- or opti-modal facilities--we can increase the efficiency of the overall shared manufacturing base.

## 8.7 Encourage the role of universities as thought leaders and implementation action developers

Universities as knowledge bases and thought leaders have the potential to integrate, synthesize, innovate, evaluate, and otherwise promote sound policy development across borders. Often the role of the university as a boundary organization among disciplines, sectors of society, and levels of government can be helpful to what is typically thought as a purely federal government prerogative.

## 8.8 Recommendations to enhance security range from the immediately achievable to medium-term hopes

- The three nations urgently need to shift to a **permanent perimeter philosophy for all three nations**. Establish a common external security perimeter, one that includes Mexico.
- **Harmonize risk management**. Just as self-importance is no importance, self-assessment is not the same as assessment, as Gary Hufbauer reminded the event participants. And threat assessment must be done in concert with neighbors. Only joint risk assessment can inform all parties about common threats, vulnerabilities, and exposures that need common attention and those risk components that need individual attention.
- We need to truly move security away from the border. Finding terrorists where they live and not at the border, a last line of defense, is an unsustainable strategy. **Sharing intelligence far ahead of time** is the best way to manage risk.
- **Expand trusted traveler and trusted shipper programs** to make them trilateral in inquiry and Continental in scope. Better utilization of C-TPAT could increase border security and flow as well as security for drugs, weapons and terrorists for all three nations.
- **Increase automation at border checkpoints**. The use of noninvasive technology and single electronic filing or E-windows can enhance the sharing of information across borders and among different government agencies.
- **Promote joint security operations**, such as IBETS and Shiprider along the northern border and examples like mirrored law enforcement efforts on the southern border.
- **Share needed cyber intelligence**. Three governments should establish clear processes for sharing of information and cyber threats and identify specific targeted entities in any of the three countries
- Share information and intelligence and **use compatible information technologies** especially the use of command, control, communications, computers, intelligence, surveillance, and reconnaissance.

## 8.9 Recommendations to enhance competitiveness complement security

- **Establish an economic commission** to prioritize joint investment in our common future.
- Enhance North American supply chains **by creating a common customs union** that includes a common external tariff.
- Create world-class ports of entry by **investing in the corridors to and the ports of entry**. Dedicate investment in gateways and corridors and **forge a continental plan for multi-modal transportation** and infrastructure. When possible to negotiate sovereignty bargaining, build and operate joint infrastructure projects.
- **Afford a “Buy North America” provisioning** in all levels of government procurement.
- **Authorize joint inter-jurisdictional powers** similar to some internal transit districts that will enable full investment of needed infrastructure.
- **Integrate services**. Manufacturing is integrated so now it's time to integrate government procurement and the services that we trade (financial, healthcare, education, tourism, etc.).
- **Create a single North American working group on regulatory issues**. Streamline a regulatory cooperation from four tracks (US-Mexico, US Canada, and Trans-Pacific Partnership, Trans-Atlantic Trade and Investment Partnership) to one and include all three NAFTA nations in all future free-trade agreements. Get the USTR to coordinate TPP and TTIP as NAFTA orientations not just US. Include intellectual property in all regulatory cooperation negotiations.
- **Study creation of a North American passport**. Persuade Bill Gates Carlos Slim and David Thompson to commission past national leaders to study the issue of North American passport with, for example, Ernesto Zedillo Bill Clinton and Brian Mulroney.
- **Increase number and length of visas**. Expand professional categories and skills included in NAFTA visas and extend the visa duration from 3 to 5 years, and allow the visa holder to change employers and create a fast track to citizenship.
- **Allow and encourage local integration**. States and promises should be permitted by the federal authorities to negotiate cross-border business. Open government procurement on a reciprocal basis.
- **Permit cabotage** on the east and west coasts of North America and the Great Lakes by bona fide North American shipping firms.
- **Adapt immigration policies** to a wider labor market.
- **Make anti-trust policies continental**.
- **Adopt a North American Innovation strategy**.

- **Identify appropriate revenue** streams that facilitate access to preclearance another port of entry services to expedite flows across the border.

#### 8.10 Recommendations about energy attempt to integrate North American assets

- **Harmonize environmental standards** and fees for energy exploration, development and offsets.
- **Negotiate a new energy framework** that can tap cold, deep, and tight reserves with environmental stewardship.
- **Approve Keystone if only for its symbolism.**
- **Improve the structure of electrical transmission** fees to the carriers have strong financial incentive to upgrade and connect the grid across borders between states and provinces. Do the same for natural gas pipelines between Mexico and United States.
- **Encourage implementation of a North American greenhouse gas emission reduction** credit (ERC) exchange as a voluntary offset program. This would allow United States consumers to pay a security premium for access to the oil sands, for Canada to buy ERC credits from Mexico and for all three to invest in cleaner energy development, efficiencies, and renewables.
- **Use interstate compacts (ISC)** as a way to negotiate environmental review, optimum siting, and shared finance of transmission infrastructure and interconnections across the borders.
- North American energy is about **renewables, energy efficiency,** and transmission as well as generation.

#### 9.0 A word about the sequester

Commander Mitch Merriman of CBP declared “The sequester will be disruptive, destructive and will have cascading effects. Wait will go to 4 hours.” The joint field command established in the Tucson sector seems to be a smart integration of border and port security operations under one command. We need an independent assessment of its effectiveness, as interagency coordination is one of the weak links in the overall management of our borders. Ship rider is an example of a budget saver. Others include the goal of “inspect once except twice”, cross training and mutual assistance, sharing border security facilities and operations. Investment in walls and fences seems to have been a drain on budgets according to estimates of the expense needed to maintain the fences and repair the holes cut by irregular crossers.

#### 10.0 Conclusions

The overwhelming realization of the Trilateral Border Summit was that difficult but possible solutions were available to assure continue growth in trade maintaining North America’s preeminent place in the world’s marketplace, to achieve mutual security from common threats, and to guarantee that the three nations enjoy energy interdependence guaranteeing the promise of NAFTA that co-production through

advanced manufacturing, mining, and agriculture can bring prosperity to every of the half billion North American citizens.

### Appendix: List of Participants

<b>Delegate</b>	<b>Martha</b>	<b>Casteneda</b>	<b>Director</b>	<b>State Alliance</b>
Delegate	Jamie	Copeland	Editor	My Life Magazine
Delegate	Jennie	Cure	Student	ASU
Delegate	Sue	Garbowitz	Sr. Political and Economic Relations Officer	Foreign Policy and Diplomacy Service, Consulate General of Canada Los Angeles
Delegate	Martha	Rascon-Overpeck	Member	FPAA
Other	Rachael	Poynter	US Mexico Border Coordinator	US Dept of State
Delegate	Daniel	Grochowalski	Counsellor/Transport	Embassy of Canada
Delegate	Diego	Ezrre	Market Research Analyst	Arizona Commerce Authority
Delegate	Diana	Negroponte	Senior Fellow	The Brookings Institution
Delegate	Eduardo	Hagert	Planner IV	Texas Department of Transportation International Relation Office
Delegate	Marta	Moszczenska	Deputy Consul General & Senior Trade Commissioner	Consulate General of Canada
Delegate	Heather	De Santis	Counsellor, Public Safety and Border Security	Embassy of Canada
Delegate	Janeane	Harwell	Researcher, writer	Janeane Harwell
Delegate	Jay	LaFrance	Manager, Canada-US Relations	Canada Border Services Agency
Delegate	John	Negroponte	Vice Chairman	McLarty Associates
Delegate	Jackie	Meck	Mayor	Town of Buckeye
Delegate	Lisa	Janes	Counsellor	Canada Border Services Agency
Delegate	Lora	Mwaniki-Lyman	Regional Economist	Maricopa Association of Governments
Delegate	Marc	Parisien	Senior Policy Officer	Department of Foreign Affairs and International Trade of Canada
Delegate	Mark	Bare	Director, Government Affairs	Motorola Solutions
Delegate	Rob	Leinbach	President	Walton International Group
Delegate	Roberto	Coronado	Assistant Vice President in Charge	Federal Reserve Bank of Dallas
Delegate	Stephen	Richardson	Executive Fellow	School of Public Policy, University of Calgary
Delegate	Steven	Acevedo	Flinn Fellow	Flinn-Brown Civic Leadership Academy
Delegate	Tim	Strow	Senior Transportation Planner	Maricopa Association of Governments
Chair	Laura	Dawson	Principal	Dawson Strategic
Chair	David	Fransen	Consul General	Consul General of Canada in Los Angeles
Chair	Lance	Jungmeyer	President	Fresh Produce Association of the Americas
Chair	Erik	Lee	Associate Director	North American Center for Transborder Studies, Arizona State University

<b>Chair</b>	Edgar	Ruiz	Executive Director	Executive Director,
<b>Delegate</b>	Luis	Chavez	Legal & Political Affairs	Mexican Consulate
<b>Delegate</b>	Jim	Chilton	Member	NACTS Board of Advisors
<b>Delegate</b>	Jay	Ennesser	Vice President	Smarter City Partnerships
<b>Delegate</b>	Dennis	Hoffman	Director	Seidman Institute ASU
<b>Delegate</b>	Lucia	Leon	Consul for Economic Trade	Mexican Consulate
<b>Delegate</b>	John	Maisto	Ambassador	NACTS
<b>Delegate</b>	John	Miser	CEO	Channel 12
<b>Delegate</b>	Grace	O'Sullivan		
<b>Delegate</b>	Sethuraman	Panchanathan	VP	OKED ASU
<b>Delegate</b>	Charles	Shapiro	President	Institute of the Americas
<b>Delegate</b>	Andrea	Whitsett		
<b>Organizer</b>	David	Bercuson	Director	DCentre for Military and Strategic Studies and Director of International Policy, the School of Public Policy, University of Calgary
<b>Organizer</b>	Jillian	Dowding	Administrative Director	International Policy, The School of Public Policy, University of Calgary
<b>Organizer</b>	Maria	Pelaez	Intern	North American Center for Transborder Studies, Arizona State University
<b>Organizer</b>	Doris	Rasmussen	Budget and Research Administrator	North American Center for Transborder Studies, Arizona State University
<b>Organizer</b>	Colin	Robertson	Vice President and Sr. Research Fellow	Canadian Defence and Foreign Affairs Institute
<b>Organizer</b>	Rick	Van Schoik	Director	North American Center for Transborder Studies, Arizona State University
<b>Organizer</b>	Christine	Verdonck	Director	Executive Programs and Outreach, The School of Public Policy, University of Calgary
<b>Other</b>	Nadia	Scipio del Campo	Consul and Program Manager	Foreign Policy and Diplomacy Service, Consulate General of Canada Los Angeles
<b>Other</b>	Maureen	Shields	Research Associate	International Policy, The School of Public Policy, University of Calgary
<b>Respondent</b>	Earl	Fry	Professor	Department of Political Science, Brigham Young University
<b>Respondent</b>	Steve	Globerman Kaiser	Kaiser Professor of International Business	Director of the Center for International Business at Western Washington University
<b>Respondent</b>	Patrick	Kilbride	Sr. Director	Americas, U.S. Chamber of Commerce
<b>Respondent</b>	Simon	Rosenberg	President	New Policy Institute
<b>Respondent</b>	Chris	Sands	Sr. Fellow	Hudson Institute
<b>Speaker</b>	Don	Alper	Director	Border Policy Research Institute, Western Washington University
<b>Speaker</b>	Thomas	d'Aquino	CEO	North American Forum and CEO, Intercounsel Ltd.
<b>Speaker</b>	Gary	Doer	Ambassador	Canadian Ambassador to U.S.
<b>Speaker</b>	Leslie	Glick	Partner	Porter Wright
<b>Speaker</b>	Geoffrey	Hale	Professor	Department of Political Science, University of Lethbridge
<b>Speaker</b>	Gary	Hufbauer	Reginald Jones Sr. Fellow	Peterson Institute of International Economics
<b>Speaker</b>	David	Jacobson	Ambassador	U.S. Ambassador to Canada
<b>Speaker</b>	Roberta	Jacobson	Assistant Secretary for Western Hemisphere	Department of State

			Affairs	
<b>Speaker</b>	Michael	Kergin	Sr. Advisor	Bennett Jones LLP and Senior Fellow, Graduate School of Public and International Affairs, University of Ottawa
<b>Speaker</b>	John	McCain*	Senator	Senator, Arizona
<b>Speaker</b>	Mitchell	Merriam	Deputy Commander	Joint Field Command-Arizona
<b>Speaker</b>	Jack	Mintz	Director and Palmer Chair	School of Public Policy, University of Calgary
<b>Speaker</b>	David	Moloney	Sr. Advisor to the Privy Council Office	responsible for Border Action Plan Implementation
<b>Speaker</b>	Isidro	Morales Moreno	Research Professor	Tecnológico de Monterrey-Campus Santa Fé
<b>Speaker</b>	Mariko	Silver	Fmr. Assistant Secretary	Department of Homeland Security for International Affairs
<b>Speaker</b>	Damien	Simonneau	Visiting Fulbright Scholar	North American Center for Transborder Studies, Arizona State University
<b>Speaker</b>	Victor Manuel	Trevino	Consul General in Phoenix	Secretariat of Foreign Affairs, Mexico
<b>Speaker</b>	Glenn	Williamson	Founder	Founder, Canadian Arizona Business Council
<b>Speaker</b>	Duncan	Wood	Director	Director, Mexico Institute, Woodrow Wilson International Center for Scholars

## **Opening Keynote Addresses**

Moderator: Colin Robertson

Panelists:

Ambassador Gary Doer, The Ambassador of Canada to the United States

Ambassador David Jacobson, The Ambassador of the United States to Canada

## **Summary:**

In presentations that focused on the Canada-US relationship, the Ambassadors highlighted numerous Canada-US success stories including longstanding agreements such as NORAD and NAFTA as well as more recent initiatives such as preclearance at airports and the Shiprider program. Specific to the land border, irritants such as regulatory “nitpicking,” legal issues surrounding law enforcement jurisdictions and the potential impact of US sequestration were highlighted. It was agreed that the three NAFTA partners bring a great deal of experience and clout to the Trans-Pacific Partnership negotiations (TPP) by working together. However, it was also noted that the US has a long way to go in terms of expanding its international trade (less than 1% of businesses in the US export anything). The Ambassadors speculated upon the opportunities and challenges in the North American relationship. They identified key opportunities in successfully developing “energy independence” and potential challenges related to climate change and water resources.

## **Discussion:**

Questions and follow-on discussion included the suggestion that the US was “getting its swagger back,” with indications of increased optimism throughout the country. Both Ambassadors agreed that although the northern border is more secure since 9/11, what is needed now is a more “efficient” border. It was also pointed out that there are many risks beyond the traditional land border, such as those in the cyber realm, that require more attention. The proposed creation of a customs union among the three North American countries is not something either Ambassador sees in the short to medium term.



## **Session 1: Setting the Stage – the Issues**

Chair: David Fransen, Consul General of Canada in Los Angeles

Panelists:

Thomas d’Aquino, Canada Co-Chair, North American Forum and CEO, Intercounsel Ltd.

Roberta Jacobson, Assistant Secretary for Western Hemisphere Affairs, Department of State

Victor Manuel Treviño Escudero, Consul General in Phoenix, Secretariat of Foreign Affairs, Mexico

Simon Rosenberg, President, New Policy Institute

### **Summary:**

The panel debated the extent of ongoing cooperation among the three North American partners as well as the best approaches to advance NAFTA. It was noted that North America once led the way in international trade relations with both the Canada-US Free Trade Agreement (1988-89) and NAFTA (1993-94). However, it was argued that progress has stalled and NAFTA is “tired, unpopular and unappreciated.” A call for a reversal in the relative decline of a North American agenda was made along with a proposed declaration at the next North American Leaders’ Summit committing to a seven-point action plan by 2020 (see Mr. Thomas d’Aquino’s paper on this site for the action plan). “Incrementalism” (rather than a “big idea”) was defended by other presenters who argued that “pragmatic” progress on closer North American cooperation is indeed happening and may be the most realistic approach given the complexities of the North American relationship. The panel also pointed out the incredible progress and change in Mexico over the past several years. Mexico is now the 14<sup>th</sup> largest economy in the world with free trade agreements with 44 countries. It was argued that “partnering with Mexico is wise,” and areas for cooperation include: efficient borders, innovation, property rights, cross-border small- and medium-sized businesses promotion, regional supply chain integration and military cooperation. The panel agreed that North America has a great story to tell in terms of trade – but we have to do a better job telling it.

### **Discussion:**

Discussion picked up on the theme of the neglect of NAFTA. Concern was expressed that the North American relationships are becoming more bilateral. Although bilateralism, when practical and pragmatic, was not criticized, an argument was made for the focus to be on getting “more bang for the buck” through trilateralism. It was noted that all three countries will “leave potential on the table” if the strength of NAFTA as a platform for globally expanding North American trade engagement is not better utilized.

## **Session 2: Setting the Stage – Strategies for the Northern and Southern Borders**

Chair: Laura Dawson, Dawson Strategic

Panelists:

Colin Robertson, Vice President and Senior Research Fellow, Canadian Defence and Foreign Affairs Institute and Distinguished Senior Fellow, Norman Paterson School of International Affairs, Carleton University

Duncan Wood, Director, Mexico Institute, Woodrow Wilson International Center for Scholars

John Maisto, Former Ambassador and Member of the Board, North Americans Center for Transborder Studies, Arizona State University

Steve Globerman, Kaiser Professor of International Business and the Director of the Center for International Business at Western Washington University

### **Summary:**

The panel discussed a number of themes for improving strategies on the northern and southern borders. It was noted that national governments spend the bulk of their time looking at big issues while it is the provinces and states who face the reality of day-to-day border concerns. Lower levels of government have concrete interests and, in many cases, the constitutional authority to deal with some of the border issues. It was recommended that more border management issues could be tackled, or at least initiated, at local or regional levels. Regional level success stories such as the Washington-BC drivers' license initiative and the establishment of PNWER (Pacific Northwest Economic Region) were presented as examples. Other solutions for improving strategies for North America's borders included the suggestion of working more closely with Universities (good laboratories for brainstorming solutions) and more private-public partnerships. It was also noted that Canada tends to be somewhat inconsistent about Mexico – swaying back in forth in its definition of North America – which sometimes includes, and sometimes does not include, Mexico. It was suggested that nothing is wrong with bilateralism, but a strategy of “pragmatic trilateralism” is worth considering.

### **Discussion:**

Discussion included comments on substantive changes in Mexico and its importance to the trilateral partnership. For example, Mexico has spent a great deal on infrastructure over the last few years and is also beginning to implement domestic reforms including the breaking up of monopolies in television and telecommunications. Furthermore, the energy industry may open up to “some” private involvement. There is a sense that there is a “momentum” building with Mexico that will make it a much stronger partner in the North American project.

### **Session 3: Critical Infrastructure Protection**

Chair: David Bercuson, Director, Centre for Military and Strategic Studies, Director of Programs, Canadian Defence and Foreign Affairs Institute and Director of International Policy, the School of Public Policy, University of Calgary

Panelists:

Geoffrey Hale, Professor, Department of Political Science, University of Lethbridge

Don Alper, Director, Border Policy Research Institute, Western Washington University

Chris Sands, Senior Fellow, Hudson Institute

#### **Summary:**

Critical infrastructure protection is an incredibly complex issue given the multifaceted ownership and management of the infrastructure. Furthermore, there are differences, including constitutional, that lead to a lack of symmetry in approaches to critical infrastructure protection. All panelists agreed that “one size fits all” or centralization will not work as a form of governance for North American critical infrastructure protection. The role of “multi-agency” partnerships was stressed: between and among different levels of government, private industry and societal groups. Another theme that was raised several times during the panel discussion was the usefulness of pilot projects as models. For example, the Pacific Northwest has initiated many projects involving border security and critical infrastructure planning in recent years, (i.e. Enhanced Drivers’ License and the First Trusted Traveler program). Such successful pilots could be models for other regions. It was also noted that the security of infrastructure at the actual points of crossing is key given the economic significance of cross-border trade and people flows to all three countries. There are 13 points of entry (of 106) that account for 85% of the value of goods that cross the two borders – and in terms of prioritization, these crossings should be the ports of entry that are the primary focus of efforts to ensure port infrastructure resiliency and security.

#### **Discussion:**

The challenges surrounding liability and ownership in critical infrastructure were discussed during the Q&A. Small- and medium-sized enterprises were identified as particularly vulnerable in terms of their infrastructure. It was agreed that all businesses have to behave responsibly in terms of security and it is the role of government to provide backup.

## **Session 4: Border Security Operations**

Chair: Edgar Ruiz, Executive Director, Council of State Governments West

Panelists:

David Moloney, Senior Advisor the Privy Council Office, responsible for Border Action Plan

Mitchel M. Merriam, Deputy Commander, Joint Field Command-Arizona, Customs and Border Protection, US Department of Homeland Security

Isidro Morales Moreno, Director, Escuela de Graduados en Administración Pública (EGAP), Gobierno y Política Pública, Campus Estado de México

Damien Simonneau, Visiting Fulbright Scholar, North American Center for Transborder Studies, Arizona State University

Earl Fry, Professor, Department of Political Science, Brigham Young University

### **Summary:**

The panel, which focused primarily on the US-Mexico border, noted that all three countries have work to do in terms of better facilitation of trade. North America was described as a platform for businesses to compete in a very competitive global marketplace. The key question that was addressed was how do we ensure a more efficient border? Greater efficiency will also mean better security. A key aspect of efficiency is getting information before goods and people reach the border so that there will be less need to inspect trusted trade and travelers. The panel also considered border security operations from a theoretical perspective by noting that the US and Mexico do not necessarily have the same definition of security and this affects how they both approach their respective borders (it was noted that this was not a problem with the US and Canada). It was also argued that discussions in the US on comprehensive immigration reform are frozen by the US mindset to “securitize” immigration. Discussions on whether the US border is “secure” or not tend not be helpful. Rather, the focus should be on “thinking outside the box” (while not denying that threats exist) and moving toward political agreements that actually tackle the issue at hand and are more achievable, such as VISA reform. An on-the-ground perspective of border security was presented with a discussion on the Arizona Joint Field Command concept, a localized organizational realignment that integrated border security, commercial enforcement, and trade facilitation missions to more effectively meet Arizona’s border challenges. Described as a “radical change” in the way the border has been managed in Arizona, where all assets related to the border were placed under a single chain of command, this initiative can serve as a model for other regions.

## **Session 5: Managing Trade and the Economic Impact**

Chair: Lance Jungmeyer, President, Fresh Produce Association of the Americas

Panelists:

Jack Mintz, Director and Palmer Chair, School of Public Policy, University of Calgary

Gary Hufbauer, Reginald Jones Senior Fellow, Peterson Institute of International Economics

Leslie Glick, Porter Wright

Patrick Kilbride, Senior Director, Americas, US Chamber of Commerce

### **Summary:**

The fifth panel considered trade and the economic impacts at the borders. Attendees were presented with a 2003 vs. 2013 North American comparison. In 2003 the continent was just coming out of recession and there was robust economic growth, while in 2013 there has been pronounced economic insecurity, debt overhang and “plodding” economies; in 2003 there was deepening North American integration and an acceptance of “big ideas,” while in 2013 the focus of each North American country has been on emerging economies, diversification outside of North America, and on Canada’s part, a partial turning away from the US. In fact, it was argued that there has been a “decoupling” of the US and Canadian economies. Increased protectionism in the US and energy future issues (for example, the Keystone pipeline debate in the US) present challenges to the bilateral relationship and are causing a certain amount of aggravation in Ottawa. The panel also suggested that a resurging US economy could perhaps spearhead bringing North America back into global prominence as a trade leader. Panelists presented a set of initiatives to improve the movement of persons, goods, services and investment within North America. These included a North American passport; the recognition of professional credentials; the creation of border infrastructure agencies; a better trusted trucker program; a single energy market; an international services agreement; opening of government procurement; extension of investment rights; and single North American agricultural inspection. The Customs-Trade Partnership Against Terrorism (C-TPAT), a voluntary program between US Customs and Border Protection and the private sector in the US, Canada and Mexico, was also discussed as an example of a successful on-the-ground program that could be better utilized.

### **Discussion:**

The discussion was moderately more optimistic about a future customs union among the three countries than the opening keynote on Day 1. It was mentioned that although there are always specific interest groups in each country that will not want a customs union, the issues are not insurmountable. However, the issues facing closer North American integration go beyond tariffs and each would have to be tackled separately. It was suggested that “NAFTA Plus” might be a better term than “customs union”. Although there were several concerns expressed about a stalling of North American integration, the comment was made that forward movement can and should be made bilaterally, trilaterally, incrementally or in a “big idea” way – whatever path is most pragmatic and smart. It was agreed that there needs to be more enthusiasm, effort and promotion surrounding the economic benefits of trade within North America. The role of Mexico as the “lynchpin” for North American success was also mentioned during the discussions. Mexico, poised for significant growth, presents a huge opportunity for qualitative and quantitative change.

## **Panel 6: Measuring Success**

Chair: Erik Lee, Associate Director, North American Center for Transborder Studies, Arizona State University

Panelists:

Michael Kergin, Senior Advisor, Bennett Jones LLP and Senior Fellow, Graduate School of Public and International Affairs, University of Ottawa

Mariko Silver, Arizona State University and former Assistant Secretary, Department of Homeland Security for International Affairs

Glenn Williamson, Founder, Canada Arizona Business Council

### **Summary:**

The final panel of the symposium looked at how success at the borders can be measured. The first question addressed was *why* measure progress in border management to begin with? The primary reason is to reassure the population that their respective governments are managing borders properly. Measurement of success will also increase confidence among trade partners and this can lead to greater trust and prosperity. The second question considered was *how* to measure success. Panelists noted that both security and trade need to be measured, although metrics are more straightforward on the trade side. It was also pointed out that *what* we choose to measure must be based on what are goals are. Measuring can be broken down into retail and system metrics based on these goals, while keeping in mind that the border is not just a line, it is a complex system. Toward the end of the panel, discussion shifted away from the physical border to the virtual border. The example of the Arizona-Canada business relationship provided the context to consider cities and airports as borders (e.g. Toronto and Phoenix banking and financial relationships do not involve the land border). Panelists suggested the movement of money and services were the new frontier of cross border relations.

### **Discussion:**

The challenge of finding and retrieving data on US-Mexico border transactions was discussed. It was also noted that Canadians frequently have banking troubles in their commercial and business dealings in the US. For example, many large Canadian transactions end up being executed in cash due to inter-bank bureaucracy on both sides of the border.

# PRODUCTIVE BORDERS ASSURE A CONTINUED GLOBAL NORTH AMERICA

## D. RICK VAN SCHOIK

### **NACTS Promotes Cooperation**

As the only multi-disciplinary North American center at a U.S. university, NACTS partners with key thinkers, advocates and policy makers in all three nations. NACTS approach includes a long view of the continent and after acknowledging that it has a common future regardless of borders NACTS then adopts an approach of optimizing and sustaining security and securing sustainability at the same time. Trade plays a key role as it manifests economic, security and sustainability issues concurrently.

I have a pretty good library of books and reports on the status and direction of North America and its prospects for a prosperous century. They fall into two distinct classes; those that urge greater cooperation and some even say integration citing the mutual benefit and those who lament all the reasons we are not more collaborative have not made more progress. I have even written a few of each. Their titles do not necessarily indicate which camp they are from.

For every opinion on the value of North America as an entity of common endeavor and that productive borders can help us compete in the world marketplace, there is a countering argument that the borders divide us more than unite us. For every article on how we three can accomplish a defense and securitization of the continent there is one pointing out the (persistent and at time pervasive and persuasive) arguments on why we can't do more than we have.

### **Objectives of the Paper are to Frame Issues For Action**

For the longest time and even after a firm southern strategy for borders was promulgated the northern was still without a formal strategy. No one was expected them to look like bookends but a startling difference between the two established an opportunity to compare and contrast not only the borders but our three governments' approaches.

The objectives of this paper and the conference are to identify the issues that the three nations need to cooperate more on to create and to sustain a Global North America into the 21<sup>ST</sup> Century by promoting economic development through trade as a continental common security. This paper is intended to capture the moment and to cast a net for the greatest return on investment. What we risk and what we lose if we aren't productive either through three bilaterals to preferably one trilateral is our common security. If we treat threats differently and if our different perceptions push us to different approaches to common defense we ultimately threaten our common value to each other.

### **The Issues Overwhelm the Policy Capacity**

"Typically human creation: it is physically invisible, geographically a logical, militarily indefensible, and emotionally inescapable. An interval of resonance... An interface... in irritation... charged with intensities." Marshall McLuhan, *Borderline Case*, 1977.

Herein I provide just enough theory to frame the issues. First NACTS finds it advantageous when discussing borders to adopt the perspective that the border is a system of systems: economic, cultural, transportation, environmental hydrological etc. and that dynamics like migration, smuggling and trafficking do not occur the same at all places and at all times along either border. Second, Oscar Martinez classifies borders on a continuum from alienated, through coexistent and interdependent to integrated and at one time each North American border has been each of first three classifications and

question is: Are we moving from clearly in 3<sup>rd</sup> to 4<sup>th</sup>. "I have pointed to a very different dynamic: one in which borders are transformed rather than transcended, reconfigured rather than retired. A United States and Western Canada this has involved not only the physical reassertion of border controls but also an ideological redefinition of border functions -- reflected in new prominence of law enforcement and the policy discourse about borders." Peter Andreas in *Border Games: Policing the US-Mexico Divide* 2000.

Colin Robertson perhaps frames the relational issues best when talking about the US election. "The Canadian stake in the US election: a pipeline and a bridge as well as the perennials of trade, defense, and security, energy and the environment." All borders relations, such as the ones Robertson cites, are "intermestic" meaning domestic issues are international and international issues are domestic. Geoffrey Hale clarifies some of the tension when he describes a continuum of policy relations from conflict, to independence to coordination, collaboration, and finally to harmonization. He also distinguishes between hard and soft laws or power and originates the term "framegration" to describe how local efforts can mend or reintegrate those fragmented by federal policy and politics (*Borders and Bridges: Canada's Policy Relations in North America*, 2010). Although sovereignty can be a separator and even a divider it can be overcome. "Canada is essentially closer to United States than it is to itself" claims Paul Krugman in *Geography and Trade*.

"North America finds itself in paradoxical times. On the one hand, the continent's economic prosperity depends upon an open global system that facilitates the free movement of people and goods. On the other, worries over America's exposure catastrophic terrorist attacks have transformed American security into a Washington's leading preoccupation. Consequently there is a potential train wreck in the making. Moving in one direction are those who have been keen to make national borders as porous as possible so as to spot greater economic integration. From the other are anxious US politicians who look to the border to hold back would-be terrorists, contraband, chemicals, and illegal migrants" writes Stephen Flynn in *The False conundrum: Continental Integration Versus Homeland Security* in the *Reporting of North America Guide* edited by Peter Andreas and Thomas Bierstecker 2003

"Canada must overcome its attachment to the bilateral special relationship and be prepared to expand the agreement to other trading partners" states the Canada Institute. Laura Dawson claims "Economists estimate that up to 10% of the cost of a North American product goes to pay for the border and trade efficiencies of the US border with Canada." I've heard numbers as low as 1% so whatever the meta-number is still significant and in the tens of billions of dollars to the gross national economy and thousands of dollars for each and every Canadian.

### **Background is Punctuated**

North America has a history of peace punctuated by violent disagreement but by the Second World War FDR and Mackenzie King had fixed the tone for the century of mutual respect and alliance between U.S. and Canada. That meeting was followed by joint collaboration on Distant Early Warning line, North American Aerospace Defense, NATO, and Permanent Joint Board on Defense. Mexico has slowly but surely been integrated into nearly all aspects and is a full partner in the Northern Command. The AutoPact was followed by CUFTA and that by NAFTA only to have the reactions to the terrorist attack of 9/11 create a lost decade. But recent enthusiasm at the North American Leaders Summit, talks of a joint inter parliament, and moves towards both Trans-Atlantic and -Pacific Partnerships lead us to conclude this is the North American Century or stated another way North America has arrived the shaper of the global marketplace.

Finally it is important to mention the existing U.S.-Canada and Canada-Mexico security and defense organizations:



- NORAD and NorthCom
- Trilateral North American defense ministers meeting
- Military Training Assistance Program
- North American Maritime Security Initiative
- Permanent Joint Board on Defense and its subcomponent the military coordination committee
- Canada Mexico partnership
- Anticrime capacity building program
- Canada Mexico joint action plan
- Canada Mexico political military talks

Recently the U.S stepped up its military aid to Mexico by establishing a special operations training headquarters in Colorado at the Northern Command, quintupling the number of people trained from 30 to 150.

Regulatory cooperation can lead to manufacturing competitiveness, wholesale/retail efficiency, regulatory efficiency. US and Canada also have a regulatory cooperation Council joint action plan meeting to promote 29 different harmonization work plans. President Obama issued an Executive Order entitled “Promoting International Regulatory Cooperation” and many and through July work plans were completed and posted.

Equal in importance to all the political changes and the evolution of security in North America is the recently begun and not to be discounted phenomena of “near shoring” and “back sourcing”. After a few short decades of jobs, services, manufacturing and production going to the cheapest bidder, meaning lowest wage nation, jobs and production is returning “reshoring” to North America. “After decades of sending work across the world, companies are rethinking their offshore and strategies. Firms are now discovering all the disadvantages of distance. Reassuring is doubling over the previous two years.” says Tamzin Booth in the (Economist January 19, 2013). The multiple reasons for this are:

- Wages are increasing overseas, skyrocketing in some cases
- Proximity matters especially if close to growing markets such as in Mexico
- politics can be uncertain and some developing nations
- Customs duties are imposed on for and value added
- Companies are discovering the public relations plus of returning
- The cost of educating the workforce is prohibitive
- A steady stream of labor and low turnover is essential
- Supply chain works and infrastructure exists
- Advanced manufacturing techniques are evolving
- Big unions in America are sometimes willing to let wages fall
- The benefits of the co-location of R&D and production is being noticed
- Foreign suppliers sometimes turn into competitors
- Intellectual property is not respected in some parts of the world

### **Risks can be Managed**

“Threat or perceived threat is not risk” Rick Van Schoik in *National Solutions to Transborder Problems*, edited by Isidro Morales 2011. For those who think all the threats emerge from Mexico are advised to

visit the threat analysis from US DHS which identifies the refugee policies of Canada as much more of a threat.

United States acknowledge co-responsibility for arms trafficking and transnational crime also known as narcotics cartels but until the risk assessment is done truly jointly we will be separated by perceptions of threat and risk. For example we hear little about spillover now that the cartels have permanently infiltrated our fiber.

Hezbollah is an active and growing terrorist presence in Canada. The RCMP thinks that the group is most technically capable of all domestic threats. "It is involved in logistics and operational support activities and fund-raising but the group has scouted targets in Canada and has a proven capability to conduct a mass casualty attack, target unguarded foreign nationals, strike at heavily guarded targets, and carry out multiple coordinated attacks" claims a June 2010 Canadian intelligence study obtained by the *National Post*.

In a blistering report Bernard Brister thanks Canada should forget Al Qaeda and think more about Mexico. "One result of the prioritization could be a focus on several threats posed by the at anarchical environment that is increasingly dominating Mexico, a nation that has sometimes been characterized as a failed state and where regional politics is dominated by local entrenched strongman who often represents families who have been powerful since colonial times. Mexico has also been described as a state that is rapidly becoming the next Columbia."

### **Economics Remains Key**

The Canada-U.S relationship is by far the largest bilateral commercial relationship in the world. "More than \$2 billion of commerce passes to the ports between US and Canada every day and the two administrations are committed to making exports more efficient while increasing security" says Paul Mackler at a recent US-Canada border conference.

Canada is the largest energy supplier to the United States. In fact Canada exports more oil to the US than Saudi Arabia and Kuwait combined. The US sells more to Canada than to the UK, Germany, Japan and China combined. The Canadian market for US exports is bigger than that of the entire European Union. Every day more than 200,000 people cross the US Canadian border.

According to the US geological survey at the length of the international boundary line of the US Canadian border excluding Alaska is approximately 4000 miles while the length of US Mexican border is less than half that length of the Alaska Canadian border alone is over 1500 miles long.

The Hon. Ed Fast, minister of international trade provocatively said "Trade is the new stimulus. We need more trade, more investment and deeper partnerships to help strengthen the financial security of hard-working Canadians and Americans alike. There is no better job creator or economic developer than deeper trade. That is why our government is continuing to seek steps to make the Canada-US partnership -- the world's greatest free trade success story -- even stronger in the years ahead."

In the meantime near shoring of jobs presents a very real opportunity to take advantage of real gains in education, transportation, etc. to capture the mantle trading bloc to the world.

"The forging of a North American community is linked to adaptation to globalization. How the United States deals with the problems in North America will influence how the country is used outside the

region can define America's ability to be a leader on the global stage. Encouraging public dialogue about North America and learning from conflict will facilitate the building of a community in North America. Development of a North American consciousness will likely come from increased trade and investment among the three NAFTA partners. However individual notions of identity and sovereignty in Mexico, Canada, and the United States will dictate the development and breath of such economic relationships” reports *Toward a North American Community*, joint report of the Canada and Mexico Institutes at the Woodrow Wilson International Center for Scholars 2002.

When it comes to building bridges Joseph Dukert writing as well as he does about energy says “A complex energy bridge already exists between Canada and Mexico. It's called the United States of America.” However, “Cooperation between Canada and Mexico on both energy and environmental initiatives which themselves often intertwined will be limited in both scope and effectiveness however unless all three nations appreciate more fully its value” states *Canada among Nations 2011 – 2012: Canada and Mexico's Unfinished Agenda* edited by Alex Bugailiskis and Andre Rozental 2012.

Indeed Canada's role and number one supplier of energy in the form of uranium, hydroelectricity, petroleum, natural gas, and increasingly renewables is not to be discounted nor is the dynamic exchange of fuels between U.S and Mexico. The next issue the three needs to deal with is the prospect of North America as a major energy exporter.

### **Critical Infrastructure Cross Borders**

In The Council for Foreign Relations Global Hot Spots 2013 cyber-attacks on US CIP is ranked as a tier one threat, but by extension we need to realize our interconnectedness by infrastructures and secure CIP that naturally extends into Canada and Mexico: dams and canals, grid including generation, pipelines that supply energy, transportation and supply chain, even defense systems i.e. NORAD, DEW and common external perimeter. I was privy to studies conducted by the U.S. Department of Energy soon after 9/11 that showed the concern of some that our security is theirs and vice versa. However a “nationalization” of CIP studies and finding has drawn back from that promise. I recall Wikileaks cables about critical infrastructure in Canada and Mexico that conveyed the sense that the governments were aware though probably lacking a comprehensive strategy.

The wiping clean of 30,000 computers in Saudi Arabia late in 2012 was a reminder of the intent of terrorist and extremists. Recent international cyber-attack defense agreements have lessened the probability and impact from cyber-threat coming through one of the North American nations to another.

### **Security Operations Can Be Pushed Away From Borders**

“The cumulative increase in expenditure on US domestic homeland security over the decade since 9/11 exceeds \$1 trillion is clearly time to examine those massive expenditures applying risk assessment and cost-benefit approaches that have been standard for decades.” writes John Mueller from Ohio State University.

NACTS has long taken an approach that we need sustainable security or secure sustainability (i.e. the need to focus on prevention, preparedness and planning in order to respond, react and recover from natural and human-made emergencies) and has written a paper on the similarities and differences between the two borders and the contrasting response of the three national to those in their border and port security operations. Jordi Diez identifies several ways that Canada and Mexico can collaborate on security issues: focus on human security, joint peacekeeping operations, and more active engagement of Mexico by the Northern Command in Canadian and Mexican Security in the New North

America 2004. The last is an approach detailed by Graham Turbiville in *U.S. Military Engagement with Mexico: Uneasy Past and Challenging Future*, Joint Special Operations University 2010.

Stephen Globerman and Paul Storer in their book *The impacts of 9/11 on Canada -- US trade* in 2008 identified estimated exports shortfalls to exceed 2 1/2 billion dollars because of securitization. Recently CBP updated its approach to security away from the mantra of the three legs of the stools (technology, staffing and infrastructure) but differed in the ways it looks at northern and southern borders and funding for the three legs suffers at ports of entry as funding for the distances between the ports gets all the attention.

“Finally, while the announcement of this plan is an important first step for the Peña Nieto government, there are many details still to be filled in and worked out. Rather than a strategy, the six-point plan is, for now, a series of aspirations and governmental actions that, if fully implemented, can contribute to improved security for Mexico but which will also require greater focus and strategizing to effectively reduce the harms and violence the country has experienced during the past six years” writes Eric Olson of Mexico Institute at the Woodrow Wilson International Center for Scholars commenting on new President’s security plan.

U.S. and Canada have a beyond the border and external security perimeter action plan that emphasizes moving the risk of further away from either of us. The border action plan implementation report from late in 2012 really has few new things to report:

- A joint entry and exit pilot project
- A joint border infrastructure investment plan
- A cross-border regional resilience assessment program
- A cyber-security action plan

Otherwise the report is updated of the acronyms that we've all known for almost a decade: FAST, C-TPAT, NEXUS, BEST and IBETs.

Perhaps the most important progress made in 2012 is the regular meeting and progress of the joint Executive Steering Committee that reports to the Interagency Policy Committee of the National Security Staff

### **Strategies Must be Joint**

“We spend too much time fussing over internal borders, when our policies and programs should be pushing borders out to the perimeter of North America and, where it makes sense, offshore” Anne McLellan in *Canadian Perspectives on US Policy* edited by Constance Smith 2007.

Two notable trading opportunities exist for North America. First the Trans Pacific Strategic Economic Partnership, also known as the Trans-Pacific Partnership, also abbreviated TPP is an effort to link the NAFTA nations with the Pacific Rim nations for trade. Both Mexico and Canada became full partners to the negotiations late in 2012. The other is a Trans-Atlantic Partnership that would link NAFTA to the EU. Public-private partnerships offer unique opportunities to build binational infrastructure. The new Windsor Detroit Bridge is an example of provincial and federal governments in Canada investing in a project that benefits both sides.

Many of the relationships between the three nations are, in the words of Monica Gattinger, “managed under the radar”, that is with informal, semi-permanent, and a regularly scheduled initiatives where

often the focus is neither pragmatic nor issue specific. Efforts to formalize and institutionalize are encouraged. I think the US-Mexico CO River agreement is a good and recent example of a joint program.

10.0 Metrics Are as Important as Strategies

The GAO (GAO-13-25-2012) reports that CBP has neither the performance goals metrics nor milestones to indicate both its effectiveness and its cost effectiveness so Congress can provide oversight. NACTS together with partners at COLEF has established 16 metrics in four domains to measure progress across the U.S Mexican border. They are as follows.

DOMAIN	MEASURES
Competitiveness	Innovation Human Capital Accessibility Clustering
Quality of Life	Economic opportunity Education and Culture Healthy Life Community Vitality
Security	Primary Levels of Crime Secondary Levels of Crime Primary Crime Prevention Secondary Crime Prevention
Sustainability	Clean Environment Natural Resources Ecological Protection Green Economy

## BEATING THE ODDS: ACHIEVING NORTH AMERICAN ECONOMIC PARAMOUNTCY

### THOMAS D'AQUINO

The ground breaking Canada-United States Free Trade Agreement of 1989 and the North American Free Trade Agreement (NAFTA) of 1994 were triumphs of vision and political will. They established an ambitious North American economic architecture and ushered in a period of business-led continental trade and investment expansion. The effects of these agreements on the domestic policies of Canada, the United States and Mexico were considerable. In the case of Mexico, in particular, the NAFTA was a powerful catalyst in the opening of the Mexican economy and in moving the country more decidedly in the direction of democratization.

The initial exuberance about North American prospects admittedly began to fade somewhat in the late 1990s prompting policy debates about ideas such as *NAFTA plus*, i.e. deepening and widening of the agreement. But it was the tragedy of 9/11 that would deal a devastating blow to prospects for the NAFTA's evolution and to the lofty dreams of a more integrated North America.

The United States understandably reacted sharply to the deadly terrorist attacks and moved quickly to secure the homeland. The most immediate impact was felt at the borders with the disruption of vital commerce. The creation by Congress of the mammoth Department of Homeland Security followed and with it a "thickening" of the borders. So-called "smart border" agreements negotiated by the United States with Canada and Mexico did relatively little to relieve the tightening.

Some of us saw in the tragedy of 9/11 an opportunity to build a new North American paradigm driven by the imperatives of a dramatically changed environment. This called for enhanced North American security cooperation and for a trilateral economic architecture that would transcend the NAFTA. Business leaders, heads of government and think tanks launched various initiatives in support of this direction. For example, in 2003, we at the Canadian Council of Chief Executives tabled a plan for much closer continental economic and security integration titled the *North American Security and Prosperity Initiative (NASPI)*. It called for the elimination of barriers to the movement of goods and people across internal borders; the establishment of a North American security perimeter; maximizing economic efficiencies, primarily through harmonization or mutual recognition across a wide range of regulatory regimes; the negotiation of a resource security pact covering agriculture and forest products as well as energy, metals and minerals based on the two core principles of open markets and regulatory compatibility; sharing the burden of defense and security; and new institutional mechanisms for closer cooperation and coordination.

In 2005, the leaders of Canada, Mexico and the United States adopted a *Security and Prosperity Partnership of North America (SPP)*. Under the umbrella of the *SPP*, a bold and comprehensive set of initiatives were launched that held out the promise of real and far-reaching change. In the meantime, thinkers across the continent articulated a vision for a much more closely integrated North America. A notable example was the work of the Council on Foreign Relations and the 2005 report of its trilateral independent task force titled *Building a North American Community*.

What has become of all these bold ideas and plans? Precious little, I regret to say. The NAFTA, once a shining example of leading edge statecraft, now is tired, unpopular and unappreciated. The grand design envisaged by the *SPP* has fallen into oblivion – a victim of partisan politics, bureaucratic overload and leadership neglect. The *North American Competitiveness Council (NACC)*, which grew out of the *SPP*

and which annually brought the continent's business leaders together with the Prime Minister of Canada and the Presidents of Mexico and the United States with the goal of advancing North American productivity and innovation, fell by the wayside.

In painting this sombre portrait of lost opportunity, I am not oblivious to the fact that our respective governments represented at this Symposium by very able ambassadors and senior officials, have worked hard to keep the North American agenda moving forward. For example, work continues in areas such as border facilitation, regulatory cooperation, health and emergency management. From a Canadian perspective, I salute in particular the efforts of Ambassadors Doer and Jacobson, who are with us here today, in advancing the Canada-United States *Beyond the Border* and *Joint Regulatory Cooperation* initiatives.

At the April 2012 North American Leaders' Summit at the White House, our heads of government did discuss regulation, secure supply chains, energy and climate change, continental competitiveness, and citizen security. And in 2012, for the first time ever, Ministers of Defense of all three countries met to discuss threats to the continent and pledged closer cooperation.

However, the ambition of these discussions pale in comparison to what was envisaged and hoped for in the aftermath of 9/11. This is not surprising given the United States environment where "security trumps trade" and where a sharply divided Congress tries to come to terms with the severe economic fallout of the recent great recession including a total debt burden now approaching 17 trillion dollars.

In the meantime, the relative economic position of North America in the face of the rapid rise in power and influence of Asian emerging economies continues to deteriorate. It is often said that the best defense is a robust offense. I submit that the best offense that North America can muster at this time is to make up for a lost decade of opportunity and advance a comprehensive set of initiatives that will restore the continent to productive and competitive paramountcy.

Our respective leaders are well positioned to launch the offensive. President Obama begins his second term committed to effecting transformational change and restoring American competitiveness. President Nieto begins his first term promising to raise Mexican growth levels, open up the energy sector and deal with business monopolies. In Canada, a seasoned Prime Minister Harper is eager to promote closer continental cooperation at all levels.

As we go on the offensive, we are not without some powerful advantages. The continent continues to be home to the world's most innovative thinking and entrepreneurial spirit. Demography is on our side and we benefit from a mobile workforce. Our resource base is massive and recent technology offers the promise of continental energy independence within the decade. Manufacturing is making a comeback as well, particularly in Mexico.

Our three leaders need to think "big" and begin by identifying the overarching challenge to North America: the need to reverse our relative decline in the face of the soaring strength of the world's emerging economies – notably China, and transform our slow growth continent into a global powerhouse able to exercise economic leadership well into the 21<sup>st</sup> century.

A key element of such a strategy involves articulating a vision for North American cooperation that goes well beyond incremental change. Building on constructive initiatives currently underway and harnessing

many of the creative ideas articulated over the past decade, I would welcome the following declaration at the next North American Leaders' Summit.

**With the goal of achieving the productive and competitive paramountcy of North America by the year 2020, and raising the standard of living of all our peoples to the first rank among nations, we pledge our three countries to the following seven-point action plan:**

The creation of a North American customs union with the free flow of goods and services among us and a common external tariff;\*

The establishment of a North American Border Pass that will facilitate the free movement of our respective nationals subject to clearly defined economic and security parameters;

The establishment of a single continental energy market with the free movement of all energy products;

The establishment of environmental standards and regulations compatible across our three countries;

The establishment of an integrated continental innovation strategy that will marshal the closest possible cooperation among our industrial, scientific and educational communities;

The establishment of an integrated ground, air and sea transportation network linking our three countries; and

The creation of a North American Joint Economic Commission to administer the integration process and to resolve disputes.

The title of my paper contains the words "beating the odds" in recognition of the widely held view that moving towards a much more integrated North America faces overwhelming odds. And yet we know from experience that where the benefits of change are manifestly positive to the body politic, change can be achieved. The vital ingredient, of course, is leadership. Without underestimating the complexity of this undertaking, I believe that joint action this year by Presidents Obama and Nieto and Prime Minister Harper can start the ball rolling in a serious way.

In asking this of our political leaders, we as private citizens have a vital duty to fulfill as well. The North America we envision will never come to be without the vigorous engagement of activists from all three countries working closely together. This Symposium provides an excellent platform for reaching out for the compelling "big idea" that beckons from just over the horizon.

The benefits of a customs union in reducing the impact and in some cases the relevance of internal borders for economic purposes is very significant. A customs union with a common external tariff would also necessitate greater synergies among Canada, Mexico and the United States in the exercise of external trade and investment policies. The engagement of all three countries in the Trans-Pacific Partnership Agreement and steps by Canada and the United States to pursue closer links with the European Union (as Mexico has already achieved), pave the way for a beneficial North American "strategic convergence" linked to both the Pacific and Atlantic.



## SETTING THE STAGE – THE ISSUES

ROBERTA S. JACOBSON

I would venture that most participants in the Border Symposium have been thinking about North America for a long time, and I am grateful for this community of practitioners and thinkers. This year I have been heartened, as the Assistant Secretary of State for Western Hemisphere Affairs, by the growing number of academics, economists, journalists, and political figures who recognize and highlight North America's critical role in the changing global economy – and its contribution to economic prosperity here in the United States. Recent opinion articles have highlighted North America's potential. A great diplomat and friend of North America, Ambassador John Negroponte, joined by Representative Kay Granger and my former colleague, Ambassador Charles Shapiro, wrote in the *San Diego Union-Tribune* that “rebalancing our global priorities will prove incomplete without a renewed commitment to our North American neighbors. The Mexican and Canadian economies are not only our largest export markets, but also joint production platforms. We build goods together, and we must do more to advance cross-border trade.” In the *Washington Post*, former Treasury Secretary Larry Summers included North American energy as one element of a jobs-centered “Growth Agenda We Need.” To achieve the greatest economic and environmental benefits, Summers emphasized that “the transformation of the North American energy sector needs to be accelerated.”

### **North America's Role in the Global Economy**

This resurgence of interest in North America's role, two decades after the passage of NAFTA in 1993, should not surprise anyone. As we continue to emerge from the economic downturn, our three deeply integrated economies – often called the “North American platform” – are key to the competitiveness of our hemisphere in the global economy. The trade and investment statistics are well known and impressive: Canada, the United States, and Mexico have the largest and most integrated trading relationship in the world, a testament to generations of hard-working, innovative citizens. We are more than just good neighbors; we are partners in an integrated enterprise whose success in the larger world depends on our successful collaboration with one another. In some ways, our continent's “new” economy will look “old,” as rising wages in Asia spark a revival of manufacturing in North America. Our leader-level border initiatives – *21st Century Border Management* with Mexico and *Beyond the Border* with Canada – and our trusted cargo shipper programs facilitate the secure, efficient, rapid flow of goods that is crucial to North America's economic competitiveness. In the global marketplace, all three countries are looking to the Pacific Rim – both the American side and the Asian side – as important markets for the future. All three governments have joined negotiations for the Trans Pacific Partnership – an ambitious, high-standard, regional trade and investment agreement among 11 nations – recognizing that the Pacific region includes some of the world's fastest-growing economies, and nearly 40 percent of world trade. The TPP will allow our manufacturers to draw on the existing supply chains fostered by NAFTA to export goods to the other eight TPP countries and their 200 million consumers.

### **Energy**

As with trade, changes are under way in the North American energy sector. U.S. energy consumption historically has outstripped production, making the continent as a whole a net oil importer. Given our new understanding of the natural resource endowments of the United States and its neighbors, it now appears that North America has the potential to become energy self-sufficient – or even to become a net energy-exporting region. Canada has the third largest proven oil reserves in the world, 11 percent of the global total, due to its oil sands deposits. Although recent years have seen a fall in Mexican oil production, Mexico's substantial remaining oil and gas reserves can be developed with additional capital

and expertise. President Peña Nieto has made energy reform a priority for his administration. If he is successful, the expected oil and gas production growth in all three countries will further strengthen North America's energy security. For our part, the Obama Administration looks forward to implementing a U.S.-Mexico trans-boundary hydrocarbons agreement that will benefit both countries by facilitating oil and gas exploration and development in the Gulf of Mexico and strengthening regulatory cooperation. The emphasis all three countries have placed in recent years on renewable forms of energy – from expanding wind and hydropower in Canada to solar energy in Mexico – will further strengthen our energy security and create new business opportunities.

### **The North American Leaders' Summits**

The creation of the North American Leaders' Summit has hastened North American integration. Since the first summit in 2005, the two presidents and the prime minister have met about every year. Trilateral cooperation initially focused on security and prosperity, particularly on how to increase economic integration and trade while strengthening our common security in the post-September 11 context. Today, our North American partnership has extended into new areas, including regulatory cooperation, health, and emergency management. The leaders also discuss security challenges in the Western Hemisphere and elsewhere in the world. President Obama hosted his fellow leaders at the White House for the most recent North American Leaders' Summit in April 2012, where they focused on regulation, secure supply chains, energy and climate change, continental competitiveness, and citizen security, among other topics. We look forward to the next North American Leaders' Summit, which Mexico will host.

### **Fruits of Trilateral Cooperation**

Between summits, our governments pursue the objectives laid out by leaders. Our ministers of foreign affairs, health, trade, and now defense regularly meet trilaterally, and as these multiple trilateral tracks show, the potential for cooperation is vast. North American economic competitiveness must remain a pre-eminent focus for our governments as we continue to grow our economies and add jobs. Regulatory cooperation is a component of this work, and has brought together our experts to ensure unnecessary differences in our rules do not hinder continental trade. We should consider ways to support our private sectors and trade associations as they cooperate to advocate more effectively for their members. Innovation is essential to North American competitiveness, so we should evaluate potential initiatives in the areas of science, technology, and education. In the areas of energy and the environment, we have cooperated on renewables, energy self-sufficiency, and other common approaches to climate change, and we have collaborated on positions in the Major Economies Forum and the Climate and Clean Air Coalition to Reduce Short Lived Climate Pollutants. In the area of public health, our cooperation with Canada and Mexico has been extensive and fruitful. Our three countries are united in planning for infectious disease outbreaks, especially those of pandemic potential, and we continually exercise and improve our trilateral disease communications, surveillance, and response mechanisms, taking into account what we have learned from past outbreaks in North America. Our security and defense cooperation has become even closer, and last year our leaders announced a new North American dialogue with the countries of Central America. This year we continue to work together to advance the important initiatives that emerged from the 2012 Summit of the Americas, particularly the Small Business Network of the Americas, which will create a region-wide network of small-business development centers to increase trade opportunities and job growth. Finally, as we look beyond our hemisphere, we consult regularly on global security challenges, and positions in international forums and multilateral institutions.

**Stakeholders**

This is an ambitious agenda, requiring sustained attention at all levels of our governments. As we prepare for the next North American Leaders' Summit, and as our ministers and other officials continue their regular engagement on ways to improve the quality of life in our region, input from experts, practitioners, academics, business owners, and others in the private and non-governmental sectors is valuable. Some observers, such as Professor Robert Pastor at American University, have been vocal advocates of the "North American idea" for many years. Others are just beginning to focus on North America's potential, as global economic factors change, long-held views erode in the face of new realities, and new possibilities for engagement emerge. Practical feedback from stakeholders, and input from North Americans across all walks of life on new areas for collaboration, are essential as the three governments capitalize on the evolving global economy, deepen cooperation, and ensure a more secure and prosperous life for all our citizens.

## BORDER AND REGULATORY REFORM: STARTING AT STREET LEVEL

**COLIN ROBERTSON**

For a succinct aspiration of Canada-US relations, the best and, probably most repeated, summary was then delivered by John F. Kennedy to a Joint Session of the Canadian Parliament in May, 1962, when he said: "Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies."

What is less cited is the next line: "Those whom nature hath so joined together, let no man put asunder."

Here the rhetoric does not match reality, especially since the imposition of security measures along the border in the wake of 9-11.

In practical terms, there are now about four times as many guards and inspectors on the northern border today than there were on September 10, 2001. Austerity and sequester may reduce these numbers slightly but, for the foreseeable future, gone are the days of the 'open door' and 'Pass Friend'. Congress has obliged these agents to inspect both people and goods entering the United States. Then there are the drones and other technological devices designed to detect movement along the 49<sup>th</sup> parallel.

Does the threat justify the deployment of resources? No.

The Canadian side has made comparable investments for its part to create a 'perimeter' – a word once verboten – around North America. If you are not already a citizen then there is a good chance that you will be asked to provide some sort of biometric if you enter the perimeter. We share passenger lists for those travelling by air and sea.

Our migration control policies, certainly in terms the security prism through which we filter prospective visitors, students and immigrants, are closely aligned.

If you are a citizen and want 'fast-pass' access (i.e. NEXUS) then you voluntarily provide biometric information. Our law enforcement and intelligence agencies work collaboratively, and through ship-rider and other programs, as closely as our perimeter air and maritime defense alliance. Canadian customs agents are now armed and there are a lot more of them.

All of this means that there are now entrenched interests – unionized jobs as well as bureaucratic power - on both sides of the border whose livelihood depends on enforcement of new security rather than trade-based rules.

We can and have repealed tariffs but lifting 'security' in an age of anxiety is unlikely.

This is the real 'thickening' of the border and, as the Chinese observed centuries ago, nothing is more difficult to break than an 'iron rice bowl' especially when it is in defense of the security of the state and its citizens.

So what can we do?

We start with high favorability towards Canada. Gallup polls consistently place Canada as the nation Americans view most favorably – 91% in the February, 2013 survey.

Business on both sides of the border needs to keep pressing their elected representatives for action. We need to press home the intellectual argument, voiced by Allan Bersin, Assistant Secretary of International Affairs and Chief Diplomatic Officer for the U.S. Department of Homeland Security that we need to put aside the false choice between security and trade, and to view economic competitiveness on continental terms.

The twin initiatives around the Border and Regulatory Cooperation are making progress on everything from new NEXUS lines to cargo inspection. While it is mostly beneath the waterline of media attention substantial progress towards meeting the commitments is being made and can be checked out on the US Embassy website.

Beyond the Borders set up twenty binational port operations committees advisory councils. We should look to them and their informal private sector and community advisors to come up with local solutions to local problems. In some cases their ideas will have national application.

The 'smart driver's license' was an innovation championed by then Washington Governor Christiane Gregoire and British Columbia Premier Gordon Campbell and then advanced by the Pacific Northwest Economic Region. Initially, the Department of Homeland Security was against the idea but their grass-roots efforts that eventually reached Washington, resulted in success.

The framework agreement to make the border more efficient is in place. Real and meaningful progress will mostly likely now come through bottoms-up, practical regional innovation starting at street level.

# DRAMATIC INITIATIVES NEEDED TO PROMOTE FURTHER BILATERAL INTEGRATION

## STEVEN GLOBERMAN

### Introduction

In the aftermath of the terrorist attacks of September 11, 2001, much of the attention of corporate executives, policymakers and researchers has focused on the “thickening” of the Canada-U.S. border subsequent to a tightening of security procedures. The available evidence, while not completely consistent, identifies a post-9/11 border thickening phenomenon that has harmed bilateral trade growth.<sup>1</sup> Border security procedures have also apparently contributed to a reduction in cross-border shopping by tourists.<sup>2</sup> The Canadian and U.S. Governments have responded to complaints about increased border – crossing costs and delays with several policy initiatives including the Smart Border Accord (2001) and Beyond the Border (2011).<sup>3</sup> Indeed, there is evidence that the initiatives, particularly the implementation of trusted shipper programs such as FAST, have mitigated some of the adverse consequences of heightened border security procedures, albeit primarily for companies involved in the transportation equipment sector. Hopeful focus has now turned to streamlining and possibly harmonizing product regulations as an additional initiative to reduce the costs associated with bilateral trade.

The broad claim made here is that post-9/11 border security developments and increased costs and complexities associated with the proliferation of customs procedures tied to government regulations, while significant, are not really all that important in the grand scheme of increased bilateral integration. Indeed, there is plenty of evidence that bilateral integration began stalling out well before 2001, the Canada-U.S. Free Trade Agreement (CUSTA) notwithstanding. One might argue that the “low-hanging fruit” of tariff reductions, particularly the product economies of scale that were facilitated by tariff reductions, were largely harvested before the CUSTA was implemented, and that subsequent bilateral policies to promote further integration have amounted to fiddling at the margin, particularly in light of the emergence and growth of China and Mexico as major trading partners with the United States. In this context, serious discussion of bilateral integration initiatives going forward must encompass controversial policies including the elimination of all existing barriers to foreign direct investment, and the creation of a fully integrated labor market, especially for professional and technical workers.

### Some Data

While it is impossible in this presentation to provide a comprehensive discussion of bilateral economic integration over the past two decades, it is possible to provide some selective and provocative data which support a contention that the Canadian and U.S. economies may be less fully integrated today (at least relative to the sizes of the two economies) than they were in 1990, and that security-related developments aren’t the main explanation.

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<sup>1</sup> For some statistical evidence and a review of other relevant studies, see Globerman and Storer (2009). Sands (2009) offers a detailed identification and assessment of the border policy environment.

<sup>2</sup> See Ferris (2010).

<sup>3</sup> On the other hand, the Western Hemisphere Travel Plan, implemented in phases beginning in 2007, is seen as increasing the costs associated with cross-border tourism, particularly same-day visits. See, for example, Bradbury (2013).

One broad measure of economic integration is the degree to which North American companies have developed and deepened cross-border supply chains. Stephen Blank (2010), among others, has identified this phenomenon as a manifestation of the two countries “making things together.” While it is difficult to quantify the extent and nature of cross-border supply chain activities, one relevant proxy measure is the magnitude of bilateral trade in intermediate goods. In this regard, it is noteworthy that total bilateral intermediate goods’ trade as a percentage of total bilateral trade (net of fuel products in both cases) was actually higher in 1990 than in 2010 (Globerman and Storer, 2011).

Another broad measure of cross-border integration of production, and of industrial clustering more generally, is the degree to which bilateral trade is intra-industry in nature. Intra-industry trade (IIT) measures trade in goods within industries rather than across industries and reflects the importance of product specialization as a driver of bilateral trade. In the 1970s, Canadian economists in particular argued that the major benefits of freer bilateral trade would arise from increased product-level economies of scale associated with cross-border product specialization. Such specialization was, indeed, a major and planned consequence of the Canada-U.S. Auto Pact of 1965, and IIT was an increasingly large share of total bilateral trade throughout the 1970s and 1980s; however, IIT as a share of total bilateral trade was virtually unchanged when comparing 1990 (45%) to 2000 (44%), and in 2011, it was lower (at 41%) than in either of the earlier years (Globerman and Storer, 2013).

Even very broad measures of the value of goods crossing the Canada-U.S. and the number of visitors crossing the border suggest that closer integration of the two economies began petering out years ago. For example, U.S. real exports to Canada in 2011 were lower than in 2000, while U.S. real imports from Canada in 2011 were only 8% higher than in 2000 (Globerman and Storer, 2011). In terms of tourism and cross-border shopping, the number of Canadian visitors to the U.S. peaked in 1991 at approximately 73.4 million. In 2009, when the exchange rate was approximately the same value as in 1991, only 36.4 million Canadians travelled across the border.<sup>4</sup> Similarly, the number of American visitors to Canada declined over the same period from 28.2 million in 1991 to 14.9 million in 2009.

While my discussion is focused on Canada-U.S. economic integration, my sense is that these broad conclusions also apply to economic integration between Mexico and the United States.

### **Assessment**

Surprisingly little attention has been paid to what appears to be a long-run hiatus in the degree of economic integration between Canada and the United States. As mentioned above, a number of researchers have highlighted the growth of China as a trading nation as one reason for the hiatus. Simply put, Chinese trade with Canada and the U.S. displaced some bilateral trade.

Another plausible, albeit less well discussed reason is the growing importance of services in the North American economy. Of particular relevance is the growth of services that are financed by government with health care as the primary example. In 1970, health care expenditures were about 7% of GDP in the U.S. By 2008, health care expenditures accounted for around 16% of GDP in the U.S. with over 50% of health care financed by major government programs, notably Medicare and Medicaid. The relative growth of health care was somewhat smaller in Canada. In 1970, the share of total GDP accounted for by health care expenditures was approximately 7% and increased to around 10.5% in 2008. Most health

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<sup>4</sup> The data are from Bradbury (2012). Obviously, individual Canadians, and Americans for that matter, made multiple border crossings.

care in Canada is funded by government. There is little direct or indirect trade in health care services, in part because patients using government funded insurance to pay for health care services have limited authority or incentive to shop for better quality or lower priced health care in foreign jurisdictions. The higher education sector is also geographically balkanized by, among other things, differential tuition between in- state (or province) students and foreign students. Licensure and other regulatory restrictions, visa requirements and other institutional differences make it very difficult for medical doctors, academics and other professionals linked to these prominent sectors to provide services outside their home countries.

In short, a substantial and growing share of the North American economy consists of services that are directly or indirectly isolated from any meaningful integration in the form of either trade or direct investment. Many (albeit not all) medical services are currently untraded because the costs of shopping for and acquiring the services are high relative to geographic differences in prices and/or the quality of those services; however, this situation might well change with the growth of telemedicine and other innovations. Certainly online educational services are a growing phenomenon, as are in-residence degree programs where students spend individual semesters at different but affiliated universities. The limitations on the migration of health care service providers, educators and the like between the two countries are legal and regulatory in nature. The elimination of those mobility barriers would likely promote increased cross-border shopping for health care, education and other publicly funded services as consumers on both sides of the border became more aware of potential service offerings on the other side.

To imagine a system where governments gave vouchers to citizens to acquire health care or educational services anywhere in North America is virtually science fiction at the present time. Certainly, differences between the two countries in the real costs of those services pose a huge political hurdle, particularly for governments in the “low-cost” country, although meaningful geographic integration of the markets for those services would contribute to some convergence in local prices. To the extent that North American governments are simply unwilling to consider initiatives that facilitate cross-border shopping for economically important publicly funded services, they are not really serious about promoting bilateral integration in the 21<sup>st</sup> century.

### *References*

Blank, S. (2010), “Building Autos: How North America Works and Why Canadian Studies Should be Interested”, ACSUS Enders Seminar Talk for *American Review of Canadian Studies*.

Bradbury, S. (2012), “Irritable Border Syndrome: The Impact of Security on Travel across the Canada-U.S. Border”, Ames: Iowa State University, mimeo.

Ferris, S.J. (2010), “Quantifying Non-Tariff Barriers: What Difference Did 9/11 Make to Canadian Cross-Border Shopping?” *Canadian Public Policy*, 36 (4), pp. 487-501.

Globerman, S. and P. Storer (2009), “Border Security and Exports to the United States: Evidence and Policy Implications”, *Canadian Public Policy*, 35 (2), pp. 171-186.

Globerman, S. and Storer, P. (2011), “Border Thickening and Changes in Canada-U.S. Trade in Intermediate versus Final Goods”, Bellingham: Western Washington University, mimeo.



Globerman, S. and P. Storer (2013), "The Nature of Aggregate and Regional Canada-U.S. Trade (1990-2011)" Bellingham: Western Washington University, mimeo.

Sands, C. (2009), *Toward a New Frontier: Improving the U.S.-Canadian Border*, Metropolitan Policy Program at Brookings, Washington, D.C.

## CROSS-BORDER AND NORTH AMERICAN COOPERATION ON BORDER AND TRANS-BORDER INFRASTRUCTURE

GEOFFREY HALE

The continued growth of trade and integrated supply chains within North America is heavily dependent on ongoing improvements in transportation systems and other forms of critical infrastructure linking the three countries and facilitating greater efficiencies and environmental sustainability in managing sectoral and regional interdependence in each country.

Many industries operate on a North American or broader international scale that foster varying degrees of interdependence and intervulnerability -- the mutual vulnerability of interests in each country to political, economic, and natural/environmental shocks in neighboring jurisdictions.<sup>5</sup> The notion of “protecting critical infrastructure” is merely one dimension of the effective operation of interrelated physical, technological, and administrative systems necessary to enable secure and efficient flows of trade and travel across national borders. However, these systems function in a context of extensive sectoral diversity, multiple and often asymmetrical (federal / state / provincial) jurisdictions in each country with corresponding differences in legal and regulatory requirements between *and within* the nations of North America.

This paper addresses the conference organizers’ question: “how can we continue to ensure that we effectively process and promote the flow of legitimate travel and trade across the borders while safeguarding and maintaining our individual and shared infrastructure, assets and facilities?”

### Defining Critical Infrastructure

The U.S. Department of Homeland Security defines critical infrastructure as “the assets, systems, and networks, whether physical or virtual, so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, natural economic security, public health and safety, or any combination thereof.”<sup>6</sup> Canada’s National Strategy for Critical Infrastructure, released in 2009, defines “CI” as “those physical and information technology facilities, networks, services and assets, which, if disrupted or destroyed, would have a serious impact on the health, safety, security or economic well-being of Canadians or the effective functioning of governments in Canada.”<sup>7</sup>

Presidential directives have established 18 sectoral policy councils in the United States, most of which draw upon private sector as well as relevant governmental expertise. Comparable policies in Canada have established 10 sectoral policy councils – several of which are heavily dependent on the consensual negotiation of policy frameworks with provincial and territorial governments with varying degrees of policy capacity and effective autonomy. Up to 85 percent of critical infrastructure in each country is

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<sup>5</sup> Charles Doran Fin (1984), *Forgotten Partnership: Canada-US Relations Today* (Baltimore: Johns Hopkins University Press), 8, 53-66; Geoffrey Hale (2011), “Nobody’s Partner: Canada and Congress,” in Greg Anderson and Christopher Sands, eds., *Forgotten Partnership Redux: Canada-US Relations in the 21<sup>st</sup> Century* (Amherst, NY: Cambria Press), 269-301.

<sup>6</sup> U.S. Department of Homeland Security (2012), “Critical Infrastructure Protection and Resilience Month,” (Washington, DC: December); online at: [www.dhs.gov/cipr-month-2012](http://www.dhs.gov/cipr-month-2012); accessed 8 January 2013.

<sup>7</sup> Public Safety Canada (2009). *National Strategy for Critical Infrastructure* (Ottawa); online at: [www.publicsafety.ca.ca/prg/ns/ci/\\_fl/ntnl-eng.pdf](http://www.publicsafety.ca.ca/prg/ns/ci/_fl/ntnl-eng.pdf); accessed 8 January 2013; see also Graham, *Canada’s Critical Infrastructure*.

owned and operated by the private sector or by provincial, state and/or quasi-governmental authorities. As a result, these policy frameworks – and the ways in which they are reflected in or integrated with the operations of critical infrastructure – can vary widely from one sector to another. In addition, very different regulatory structures in the United States and Canada generally ensure that cooperation on critical infrastructure planning and protection is subject to varying domestic political and legal requirements in each country. Historically, this reality has been even more evident in constraining cross-border cooperation between the United States and Mexico.

Even in sectors in which national or federal governments have primary jurisdiction, such as border-related infrastructure, the development of cooperative bilateral or trilateral policies are heavily dependent on the extent to which specific government agencies, as well as regional/local economic, social and political interests perceive their own interests to be positively (rather than negatively) associated with the development of cooperative and complementary policies. As a result, framing effective policies for the development, operation, renewal and protection of border infrastructure – as with other forms of critical infrastructure – requires an awareness of similarities and differences in operational conditions and requirements along U.S.-Canadian and U.S.-Mexican borders.

### **Northern and Southern Borders: Similarities and Differences**

Border infrastructure on the U.S. northern and southern borders differs significantly in at least five major ways:

- the number and geographic dispersion of border crossings;
- differences in the nature and intensity of traffic flows;
- relative traffic concentration on land borders;
- regularity and seasonality of traffic flows;
- variations in levels and types of border enforcement.

There are 121 U.S. land border crossings with Canada along a 5,525 mile border, 3,987 miles with the lower-48 states, compared 47 with Mexico, including a recently opened automated crossing, along a 1,969 mile border.

Infrastructure and related services along the U.S.-Canada border are organized to facilitate local border crossings by area residents, many of whom have developed a “borderlands” culture of extensive interaction and interdependence, even in relatively remote areas of western and northern Canada. For example, 69.4 percent of the 85 DHS reporting areas<sup>8</sup> on the U.S.-Canada border reported fewer than 500 daily passenger vehicle crossings in 2011, accounting for 8.7% of such crossings. In addition, 66.3 percent of DHS reporting areas reported fewer than 50 daily truck crossings in 2011 – and 5.1% of overall truck crossings on the northern border.

By contrast, security measures on the U.S.-Mexican border funnel traffic through a much smaller number of ports-of-entry, mainly located in or close to major urban areas. Only 1 of the 25 DHS reporting areas on the U.S.-Mexican reported fewer than 500 daily passenger vehicle crossings in 2011, accounting for 0.02% of such crossings; only 3 of 18 reporting areas had fewer than 50 daily truck crossings accounted for 0.5% of U.S.-bound crossings.

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<sup>8</sup> Reporting areas in more densely populated areas may involve more than one port-of-entry – e.g. the Buffalo-Niagara and Detroit-Windsor corridors.

*a) Differences in the Nature and Intensity of Traffic Flows*

Trends in cross-border travel **by individuals** across the land borders with Canada and Mexico have been even steeper than reductions in passenger vehicle traffic noted in Table 1, dropping 40.6% and 41.2% respectively between 2000 and 2009 – although entries from Canada had recovered to 65.7% of 2000 levels by 2011, compared with a further decline to 46.3% from Mexico.

However, these aggregate statistics mask significant regional differences in trends and volumes of cross-border travel and truck shipments on both borders – particularly since the end of the 2008-09 recession. Personal vehicle traffic increased 18.4% on the U.S. northern border in 2009-11, despite falling even more rapidly than traffic from Mexico between 2000 and 2009. Northbound traffic from Mexico dropped an additional 13.0% during the same period.

*Table 1: What effects from economic recovery since 2009?*

	Passenger Vehicles			% chg	Trucks			% chg
	2000	2009	2011	2009-11	2000	2009	2011	2009-11
U.S.-Canada Total	100.0	72.3	85.6	+ 18.4	100.0	71.2	77.9	+ 9.4
* East of Lakehead	100.0	66.1	73.1	+10.6	100.0	69.2	76.0	+8.1
* West of Great Lakes	100.0	92.5	125.9	+36.1	100.0	78.7	85.0	+9.8
U.S.-Mexico Total	100.0	76.2	66.3	-13.0	100.0	113.4	108.4	+13.4
* California	100.0	85.2	79.2	-7.0	100.0	108.1	107.6	+8.1
* Texas	100.0	70.7	57.7	-18.4	100.0	116.4	106.7	+16.4
* Arizona	100.0	71.7	65.2	-9.1	100.0	103.1	103.0	+3.1
* New Mexico	100.0	170.3	150.5	-11.6	100.0	181.4	220.9	+21.8

*Source: U.S. Bureau of Transportation Statistics; author's calculations.*

By contrast, truck traffic has increased on both borders since 2009 – 13.4% from Mexico and 9.4% from Canada. However, above average growth in “inbound” U.S. truck traffic is notable in New Mexico (21.8% - from a small base), Michigan (17.4%), Texas (16.4%), Montana (14.4%), Minnesota (11.6%) and Idaho (11.3%).

One major implication of these diverse patterns is the need for different regional planning processes, as recognized by the U.S.-Mexico 21<sup>st</sup> Century Border Management process initiated in 2010, and in the need for different strategies for the effective management of major regional ports-of-entry and smaller (and more remote) ports – as recognized in the U.S.-Canada Border Action Plan of December 2011.<sup>9</sup>

*b) Relative traffic concentration (Land Borders)*

The seven (28%) busiest U.S.-Mexico border crossing areas processing more than 10,000 passenger vehicles daily accounted for 71.2% of U.S.-bound passenger vehicle traffic and 84.8% of U.S.-bound truck traffic. The six (7.1%) busiest U.S.-Canada border crossing areas (with 3,000 passenger vehicles or more

<sup>9</sup> *United States and Canada Beyond the Border Action Plan: A Shared Vision for Perimeter Security and Economic Competitiveness – Action Plan* (Washington and Ottawa: U.S. Department of Homeland Security and Privy Council Office, Government of Canada, 11 December 2011), 17-18; online at: <http://www.dhs.gov/xlibrary/assets/wh/us-canada-btb-action-plan.pdf>.

daily) accounted for 54.7% of U.S.-bound vehicle traffic and 71.1% of U.S.-bound truck traffic (see Table 3).

Although this concentration of traffic points to the importance of cross-border cooperation in developing both capital funding and operational strategies that focus a larger share of available resources on the busiest crossings – as with the Canadian government’s “Gateway Strategy” of recent years, the highly regionalized nature of much border traffic also suggests the importance of ensuring that investments in border modernization also flow to crossings which account for a disproportionate share of traffic in their respective regions.

#### *c) Regularity / Seasonality of Traffic Flows*

Most U.S.-Mexico border crossings are characterized by very limited monthly variations in passenger vehicle traffic, with a standard deviation of 5.8% in monthly averages, along with modest variations in truck traffic – suggesting relatively high volumes of local and other regular users. Only 4 of 25 reporting areas report standard deviations of more than 10% in passenger vehicle or truck traffic.

U.S.-Canada border crossings are characterized by a much greater range of seasonality. Major regional crossings along the Michigan-Ontario border, Pacific Coast region, the Maine-New Brunswick border, and the Alberta-Montana border are characterized by limited seasonal volatility (less than 20 percent for passenger vehicles; less than 10 percent for trucks). However, some regionally significant crossings and many smaller border crossings are characterized by much higher levels of seasonality.

#### *d) Enforcement Actions*

Enforcement levels along the U.S. southwestern border with Mexico border have always been substantially higher than on its northern border with Canada. Tighter border and workplace enforcement since 2000 and a substantial decline in illegal immigration since the 2008-09 recession have been noticeable on both borders – although the discrepancy between enforcement action at ports of entry between the two borders has usually been significantly less than in enforcement actions against non-U.S. citizens in other sectors.

### **Recommendations**

The most important priority for the strengthening and protection of border infrastructure is for all three governments to focus on the implementation and extension of current bi-national border modernization initiatives: the U.S.-Canada Beyond-the-Border Action Plan and the U.S.-Mexico 21<sup>st</sup> Century Border Management process. The agendas and stakeholder networks of the two processes are complementary in some areas, but are also sufficiently distinctive in engaging issues specific to each border and border region to warrant the continued development of their separate agendas.

Specific recommendations for improving infrastructure management include:

- The development of clear parameters for prioritizing investments in each sector, involving both national and bi-national collaborative processes;
- The development of innovative approaches for internal and cross-border funding partnerships to provide increased leverage for federal funding in each country;
- The development of incentives for more efficient use of resources including targeted user pay methods, congestion pricing, and sharing of ‘best practices’ in traffic management and conservation techniques;

- Clear deadlines and regular reporting mechanisms to provide greater transparency and operational accountability, and provide mechanisms for the sharing of best practices (“retail metrics” as well as “systems metrics”)<sup>10</sup> among stakeholders on both borders.

It should be recognized that the use of such methods are part of a broader toolkit for the effective management of border infrastructure and related systems that require adaptation to the specific circumstances of individual projects and ports-of-entry.

Implementation of promised land-precleanance pilot projects on the U.S.-Canada border is a vital complement to the ongoing modernization and efficient management of border infrastructure – especially in areas with locational constraints on expanding border facilities. Officials of both governments should seek creative approaches to the challenges of managing different border settings, and reconciling differences in each country’s legal requirements and immunities which have created barriers to more effective cooperation in this area.

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<sup>10</sup> Thanks to Marika Silver for this helpful distinction.

# INFRASTRUCTURE RESILIENCE STRATEGIES FOR MAJOR LAND CROSSINGS DONALD ALPER

## **Problem and Context**

The enormous volume of cross border trade and people flows is a major economic driver in North America. The economic data, widely known, is powerfully impressive and will not be repeated here. What is perhaps less widely understood are the ways North American economic flows relate to border infrastructure, particularly major land ports of entry which handle most commercial and people transactions? Key aspects of these relationships are discussed below:<sup>11</sup>

Funneling of Freight Flows: Both Canada and Mexico are leading import and export markets for the US. Trucking is by far the dominant surface mode for transporting goods, which means most trade flows through land ports. Only with regard to imports from Canada to the US does the rail mode make up more than one-sixth of the surface borne freight. Water borne and air modes make up a very small portion of the total. Simply put, cross border trade among all three countries is overwhelmingly dependent on the movement of freight-bearing trucks traversing land ports of entry.

The vast preponderance of cross border flows is handled at a small number of ports. Thirteen ports handle 85% of cross border freight flows, which means that the other 93 ports handle just 15% of the total flows. Overall, ninety-five percent of the trade that crosses the two land borders is accommodated by just 20 ports. At the Canada-US border, five of the eight largest crossings are bridges. If cross-border trade vitality is dependent on well-functioning bridges, then the incapacitation of one or more of these bridges is a serious threat to Canada-US trade. The problem is compounded by the relatively long distances that would have to be traveled to cross the border at alternative sites. From a critical economic infrastructure perspective, a relatively small number of ports should be the primary focus of efforts to ensure port infrastructure resiliency.

## **Paramount Role of Key States in Cross-Border Trade**

On the southern border, California and Texas serve as major trip beginning points and endpoints for cross border trade. Texas is the origin of 82 per cent and 86 per cent respectively of the exports moving south through El Paso and Hidalgo. California is the origin of 92 per cent of exports, and the destination of 86 per cent of imports flowing through Otay Mesa. On the northern border, no state plays such a commanding position in sourcing or receiving cross border trade. However, California and Washington State are highly significant beginning and end points for trade spanning the west coast corridor and traversing the northern border at Blaine. Similarly, Michigan, Pennsylvania and New York all are major source and destination states for freight crossing at ports of entry in Detroit, Buffalo and Champlain. Ports of entry are closely linked to the economies of the states in which they are located. For this

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<sup>11</sup> Data and figures are taken from Davidson, David and Austin Rose, "Cross Border Freight Flows at the Two Land Borders." *Border Policy Brief* (Volume 6, No. 1), published by the Border Policy Research Institute, Western Washington University, Winter, 2011, retrievable at <http://www.wvu.edu/bpri/publications/border-policy-briefs-2011.shtml>. All the figures use 2009 data from the North American Transborder Freight Database, maintained by the US Bureau of Transportation Statistics, retrievable at <http://www.bts.gov/programs/international/transborder/>

reason, states have a major stake in the efficiency of these ports and state governments, in coordination with their cross border neighbors, should take the lead in infrastructure planning and resiliency.

### **North-South Trade Corridors**

A close analysis of freight flows reveals a mid-continent region heavily associated with manufacturing. Integrated manufacturing supply chains extend from Ontario and Quebec, through the Midwest to industrial and manufacturing zones in the Mexican borderlands. Detroit and Laredo serve as “bookends” for this important corridor. Large border states—Michigan, Pennsylvania, New York and Texas account for a very large proportion of exports and imports traversing the northern and southern borders. A similar pattern is found on the west coast where north-south trade flows through key ports in California (Otay Mesa) and Washington (Blaine). All three countries have a strong stake in the maintenance of efficient north-south corridors which are dependent on well-functioning land ports of entry that serve as gateways to them.

### **Recent Canada-US Border Frameworks**

Border frameworks since 2010 have made trade facilitation and protection of critical infrastructure central to the strategic mission of homeland security<sup>12</sup> Specifically, the Beyond the Border Action Plan (BtBAP) and the Northern Border Strategy (NBS) stress themes aimed at enhancing cross border trade and commerce, and facilitating greater collaboration on public safety and resiliency. One of three strategic objectives in the NBS, released in June 2012, is to “ensure community safety and resiliency before, during, and after incidents, including terrorist attacks and natural disasters (NBS, 13).” The NBS refers to the importance of safe and secure border communities to the nations’ economies, and states that one of the strategic objectives of DHS is to “enhance the ability of communities to recover quickly and resume essential services and economic activity in a timely fashion (NBS, 15).” Part IV of the BtBAP points to the need to “mitigate the impacts of disruptions on communities and the economy by managing traffic in the event of an emergency at affected border crossings (BtBAP, 29).” Since publication of the BtBAP, DHS and Public Safety Canada have released the guide, *Considerations for United States-Canada Border Traffic Disruption Management (December 2012)*, that outlines best practices for land border traffic management to support resumption of business activity at the border following an emergency.

These recent border frameworks are also important for how they conceptualize borders. The NBS articulates three different interrelated conceptions of borders—as jurisdictional lines and physical checkpoints; as secure flows; and as shared communities and infrastructure (NBS, 7). The latter two conceptions highlight important commercial and sociological aspects of borders. From this perspective, borders have critical transactional functions as connectors of economies, people, communities and infrastructure. Strategies for securing and managing borders and border environments are guided by federal governments pursuing national security missions, but their efforts must be meshed with the

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<sup>12</sup> DHS’ Quadrennial Homeland Security Report, released in 2010, wove trade and commerce functions with the traditional primary focus on combating terrorism. “we must work with our international partners and with the private sector to prevent the exploitation of the interconnected trading, transportation, and transactional systems that move people and commerce throughout the global economy and across our borders. At the same time, we must also work with those same partners to ensure the security and resilience of those systems in order to expedite and reduce unnecessary encumbrances to lawful trade and trade that may impair economic vitality. DHS. Quadrennial Homeland Security Review Report, February 20, 2010.



realities of communities, regions and states where shared community, commercial and infrastructure concerns are most manifest.

In particular, given the economic and social importance of border crossings, border traffic flow strategies are key elements in critical border infrastructure planning and resilience. In the BC-Washington region (as in other cross border regions) there is strong interest in developing disaster commerce resumption/recovery strategies to ensure cargo and other commerce can cross the border during and after an incident.<sup>13</sup> Such goals are implied in emergency management protocols, but actual operational plans such as dedicated special lanes or systems for quickly prioritizing freight movements have not materialized.

### **Recent Efforts in the Pacific Northwest**

The Pacific Northwest has been a focal point of many initiatives involving border security and critical infrastructure planning in recent years, including pilot projects spelled out in the Beyond the Border Action Plan. The region, home of the Enhanced Drivers' License (EDL) and the first trusted traveler program (PACE), is well known as an incubator of border policy innovation. The region has a long standing Pacific Northwest Emergency Planning Arrangement (PNEMA) going back to 1998, linking the states of Alaska, Idaho, Oregon, and Washington, and the province of British Columbia and The Yukon. PNEMA's mission is coordination of emergency preparedness, response and recovery through a regional approach. As a proven and effective regional binational entity, it is viewed nationally as a model for broader North American mutual aid agreements.

Security planning for the 2010 Olympic and Paralympic Winter Games in Vancouver, British Columbia was another model of successful region-led, bilateral security and infrastructure collaboration, involving more than 40 Canadian and US federal, state and local law enforcement agencies. An Olympics Security Committee, initiated by Washington state officials 4 years before the event, and funded through state-federal funding partnerships, helped facilitate engagement of federal, state and local officials on both sides of the border.

A broader effort to plan for critical infrastructure disruptions throughout the region has been led by the Pacific Northwest Economic Region (PNWER) in partnership with several federal agencies. "Blue Cascades" exercises to inform and prepare infrastructure owners, operators and government officials and other stakeholders about recovery issues after a disaster, have been held since 2002. Topics covered include cyber security, earthquake recovery, pandemics and supply chain resilience. In 2012, PNWER was contracted by the US Coast Guard to run the Canada-US Maritime Recovery Strategy pilot project that is part of the Beyond the Border Action Plan. The effort resulted in progress toward implementing a multi-agency, multi-jurisdiction communications and information sharing protocol and identification of specific action steps to improve regional maritime resilience. An important expected outcome from this pilot is a maritime recovery annex to the PNEMA, which along with similar

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<sup>13</sup> A major research report on developing state-level freight resiliency plans conducted by the MIT Center for Transportation and Logistics makes the point that there are important difference between the *response* to an incident and *recovery* during and after the event takes place. The report defined response as "actions taken before, during, or after an incident with the objectives of (1) saving lives, (2) minimizing damage, or (3) enhancing long-term recovery. Recovery, on the other hand, are actions taken after an event to return vital economic systems to minimum standards (in the short term) and all economic systems to normal or improved levels (in the long term)(2008, p. 47). For our purposes, this distinction is important in developing mechanisms to ensure border ports of entry remain as functional as possible during natural or manmade disasters.

agreements in the Great lakes and Atlantic regions could form part of a comprehensive bilateral agreement.

A BC-Washington Border Incident Communications Protocol (BICP) for exchanging information in the event of incidents leading to border closures was created in 2005. The protocol, partnering federal, state/provincial and local transportation and law enforcement agencies, spells out specific notification and other information required by agencies initiating, or affected by, a border shut down. As part of the implementation of the Bitmap, Canada and the US have jointly published a best practices guide—*Considerations for United States-Canada Border Traffic Disruption Management*—to help regional authorities develop plans for specific points of entry and conduct cross-border regional exercises.

Although not cross-border in scope, the Washington Department of Transportation (WDOT) joined with the MIT Center for Transportation and Logistics (2008) to produce a comprehensive report on developing a freight resiliency planning process that can be used by any state. The report drew heavily from the planning experience in Washington State where, for example, a prioritization scheme determines which type of traffic gets preference in the event of road slowdowns or closures.

### **Summary and Recommendations**

DHS has defined its border security mission to encompass shared border infrastructure assets spanning cross border communities. This more expansive conception of border security highlights northern and southern border crossings as vital economic and social assets. Protecting and restoring these assets is recognized as an important aspect of border management.

Critical border infrastructure planning should be tailored to varied geographical settings, cultural dynamics, economies, and regional political assets. It goes without saying that the Canada-US (and US-Mexico) borders are really several border regions with different vulnerabilities and political capabilities. Crossings served by bridges have different requirements than ports accommodated by surface roads. Commuters comprise large crossing populations at major southern POEs, but are generally insignificant at most northern crossings. The composition of freight shipments is quite different in the Midwest manufacturing corridor compared with the Pacific west region. Cross border institutions and stakeholder forums also vary in capabilities and efficacy. All this means that critical infrastructure planning must have a strong regional, cross border orientation.

The subnational level should drive critical infrastructure planning, but within a context of partnerships involving federal security and public safety entities and private sector stakeholders. State governments in particular are well positioned to exert leadership because of the importance of major POEs to states' economies, and the states' responsibilities for managing and funding transportation systems, law enforcement and emergency management entities. On the northern border, state-provincial forums and other arrangements have evolved for dealing with regional cross border transportation and safety problems. These arrangements can be usefully leveraged as has been the case with the national Joint Transportation Executive Committee (JTEC) that is part of the Washington Governor-BC Premier annual meetings.

Neutral forums should be created to facilitate engagement of federal and subnational authorities on both sides of the border. Several models exist. Port Operation Committees (POEs) set up by the Beyond the Border declaration in 2011 could be expanded to include transportation and emergency management officials and private sector stakeholders, and tasked to help plan and implement

contingency planning. Perhaps the most impressive model for this kind of forum is the International Mobility and Trade Corridor Project (IMTC) in Whatcom County, Washington, which regularly convenes cross border government, business and border enforcement entities to promote transportation and security improvements for the four border crossings linking Washington State and the Lower Mainland of British Columbia.

Strong relationships need to be in place before an emergency or disruption occurs. Over the years there has been considerable investment by both the US and Canada in building a culture of cross border collaboration in the Pacific Northwest. Stakeholders in this region know each other and many public-private frameworks exist for building and fostering informal relationships. US security planning for the 2010 Vancouver Olympics was significantly aided by the existence of a rich web of cross border law enforcement and emergency management connections in place prior to the time the respective federal governments became fully engaged in Olympics' planning. Such relationships are vital for building trust and opening effective communication channels for navigating different administrative systems and overcoming turf issues.

Response and recovery are different. During the response phase of an emergency or disaster, law enforcement and emergency aid personnel are in charge. The mindset is that of apprehension (catch the perpetrators) or abate the damage (put out the fire). The recovery phase shifts the focus to *resuming* economic and other cross border activity. Companies, transportation personnel and local officials are important for this effort. Effective contingency plans for POEs would integrate these two phases.

Develop and validate (through exercises) a Pacific Northwest framework for resumption of land border commerce at the Cascade border crossings. Like the Maritime Commerce Recovery pilot, a framework for resuming commerce at ports of entry should be developed, attached to the PNEMA and made exportable through existing emergency management protocols to other border regions, north and south.

#### *References*

DHS. "Considerations for United States-Canada Border Traffic Disruption Management." December 2012. <http://www.dhs.gov/considerations-united-states-%E2%80%93-canada-border-traffic-disruption-management>

DHS, "Canada-United States Action Plan for Critical Infrastructure," 2010. [http://www.dhs.gov/xlibrary/assets/ip\\_canada\\_us\\_action\\_plan.pdf](http://www.dhs.gov/xlibrary/assets/ip_canada_us_action_plan.pdf)

DHS. "Considerations for US-Canada Border Traffic Disruption Management," 2012.

DHS. "Northern Border Strategy." June, 2012. <http://www.dhs.gov/dhs-northern-border-strategy>

DHS. Office of Infrastructure Protection. "Regional Partnerships: Enabling Regional Critical Infrastructure Resilience," March 2011. [https://safeguardiowa.wildapricot.org/Resources/Documents/RCCC%20Regional%20Partnership%20Study%20Report\\_2011-03-22.pdf](https://safeguardiowa.wildapricot.org/Resources/Documents/RCCC%20Regional%20Partnership%20Study%20Report_2011-03-22.pdf)

Government of Canada. "Action Plan-Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness," 2011.

Lowenberg, Major General Timothy J. "Challenges and Lessons Learned: Bi-National / Joint / Combined Integrated Operations in Support of the 2010 Winter Olympics. Unpublished document, presented at 2010 Pacific Northwest Cross-Border Workshop, Seattle, 2010.

[http://www.pnwbha.org/?page\\_id=316](http://www.pnwbha.org/?page_id=316)

MIT Center for Transportation & Logistics. "Development of a Statewide Freight System Resiliency Plan, Final Research Report. "Cambridge, MA, July 23,

2008.[http://www.wsdot.wa.gov/NR/rdonlyres/023FC2C7-DD28-4EB6-8203-98560DA76CB7/0/WSDOT\\_FSR\\_Report\\_v25.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/023FC2C7-DD28-4EB6-8203-98560DA76CB7/0/WSDOT_FSR_Report_v25.pdf)

"Sustainable Critical Infrastructure Systems—A Framework for Meeting 21<sup>st</sup> Century Imperatives. National Research Council, Washington, DC: The National Academies Press,

2009.<http://www.ices.cmu.edu/censcir/resources/Critical%20Infrastructure%20prepub.pdf>

US-Canada Communication and Information Sharing Strategic Protocol Framework Recommended Course of Action—Pacific Northwest Emergency Management Arrangement Overview, draft document, September 26, 2012.

<http://www.regionalresilience.org/Portals/0/Strategic%20Communication%20Protocol%20Framework%20%28PNEMA%20Annex%20C%29%20Edit.pdf>

## BORDER SECURITY ISSUE

### DAVID MOLONEY

Security is a touchstone issue when talking about borders. Yet comprehensive border management must not only secure the border but also facilitate legitimate movements of goods, services and people. The traditional framing of border management in terms of a trade-off between these two objectives is unproductive and misleading. The true challenge is how to enhance border efficiency, which delivers on both objectives and is arguably the only way to sustainably deliver on either one. We need to work at shifting perceptions and discussions of border management -- at the public, political, bureaucratic and operational levels -- on to this frame. The DHS 2012 Northern Border Strategy is explicitly based on this preferred premise. However, making this a day-to-day guide remains a work in progress on both sides of the Canada – U.S. border.

Canada and the U.S. have a long-standing bilateral partnership on border management, as do the U.S. and Mexico. Both of these partnerships have been increasingly formalized since the mid-1990s. Canada and the US have worked together on the “Shared Border” approach in the 1990s, on the “Smart Border Accord” of the 9/11 era, and are working now on the “Beyond the Border Action Plan” that was launched in 2011. The U.S. and Mexico agreed to their own Smart Border Accord after 9/11, and agreed to the “U.S.-Mexico 21<sup>st</sup> Century Border Management Plan” in 2010. The sole trilateral attempt in this space to date has been the “Security and Prosperity Partnership for North America”, from 2005 to 2009. These border partnerships have been tailored to the twin challenges of public safety and economic competitiveness, in continual evolution as perceptions have evolved of security threats and of economic needs and opportunities. While the security challenges differ between the two borders, the trade facilitation objectives of the Canada-U.S. and Mexico-U.S. border partnerships are increasingly similar. This should not be surprising as the accelerating flow of goods, services and people among Canada, the U.S. and Mexico is creating immense economic benefits for all three countries and is essential to maintaining and improving North American competitiveness in a tough global marketplace. More often than not, specific trade facilitation initiatives on one shared border, such as trusted travelers and trusted trader programs, build on experience and learning on the other border.

Analysis of trade and travel flows post 9/11 demonstrates quite clearly that an overwhelming focus on security outcomes does reduce flows of both commerce and travelers. Recent analysis also demonstrates that the detailed operational parameters of attempts to move towards more efficient border management, via trusted trader and trusted traveler programs for example, affect both the volumes and the nature of trans-border flows, to the point of affecting business decisions on the location and nature of investment and production, as well as decisions on personal travel.

#### **Opportunities/Obstacles**

Much of the security work in the Canada-U.S. border relationship over the last ten years has been anchored in broader Canadian and American counter-terrorism efforts, specifically how Canada and the U.S. could better work together to detect, deter and respond to terrorist threats from abroad. This meant (a) strengthening domestic anti-terrorism legislation, including Canada’s Anti-Terrorism Act, to provide more tools to police, intelligence and border agencies; (b) strengthening capacity of public safety, intelligence and border agencies; and (c) improving information-sharing.

Fundamentally, however, improve security through more efficient border management going forward will come by “pushing the border out”. This means managing and mitigating the risks inherent in

enormous and growing flows of people and cargo before they reach the shared border and, increasingly, before they reach our shared perimeter.

The 2011 “Canada – U.S. Beyond the Border Action Plan” represents a very significant evolution of Canada-U.S. cooperation in this regard, establishing as one of its core building blocks a perimeter approach to screening travelers and goods from outside North America, whether they be destined for Canada or the U.S. The BTB Action Plan comprises four key pillars: Addressing Threats Early, Trade Facilitation and Economic Growth, Cross Border Law Enforcement, and Critical Infrastructure, Emergency Preparedness and Cyber security.

The Plan commits, *inter alia*, to greater information sharing, to working together on addressing the threats of homegrown violent extremism, and to building on similarities on visa and document requirements, advance passenger requirements and national targeting centers to enhance screening methodologies for travelers into North America.

The challenge is to *not* allow this expanded frontier of active risk management to become an additional layer of screening and inspection. Efficiency requires that we *not* add elastics and hockey tape to the belts, braces and suspenders that have come to typify border management. Pushing the border out *efficiently* means that we share domain awareness and risk assessments, manage and mitigate risk early and jointly. Gather information ahead of time, assess it and then manage flows according to those assessments, unless new information changes our assessments. In sum, screen once, accept twice or even three times.

### **Policy Options**

The Beyond the Border Action Plan is the prime, shared policy lever established by Canada and the U.S. to advance not only our shared economic interests but our shared national security objectives in respect of the Canada-U.S. border, recognizing the intertwined nature of our two economies and societies.

While Canada and Mexico do not share a common border, obviating any imperative to have a bilateral border accord, Canada does have fundamental interests in the success of the effective management of the U.S.-Mexico border given our security and economic interests in North America. This argues very much in favor of a role for increased trilateral cooperation on specific security issues. These include: sharing of intelligence with U.S. and Mexican authorities on issues related to terrorism and transnational crime organizations; working with U.S. and Mexican officials to build on growing military-to-military cooperation; and working with US and Mexico to strengthen the public security institutions of Central America and Caribbean countries as they combat transnational criminal organizations.

### **Conclusion**

Canada, the US and Mexico share an integrated market, built on the foundation of NAFTA, which must serve as our shared platform to compete in the global economy. We need to learn from our respective experiences in making our borders more open, effective and efficient.

Finally, it is always worth remembering that borders are not a first line of defense, but the last. Border management represents only one component of national security management, which must be addressed in a comprehensive fashion: nationally, bilaterally and trilaterally. Appropriate policies, strategies and institutions to deal with national security and public safety issues, trust and cooperation between agencies in our three countries, and lastly enhanced cooperation on the perimeter are the best guarantees of North American security.

## THE MEXICO-US LINE. IS SHARED RESPONSIBILITY POSSIBLE? ISIDRO MORALES

### **The Dual Function of the US-Mexico Border**

The inception of the North American Free Trade Agreement (NAFTA) enhanced and expanded material and human mobility across the North American region, legal or not, and challenged cross-border governance mechanisms prevailing in the region for dealing with transnational circulation. Parallel to the enhanced mobility spurred by regionalization trends, the regional bloc also witnessed a “thickening” of inner or outer borders, an overall retooling of strategies and technologies gearing to a redefinition of social distances, and the enhancement of deterrence and confinement. It is as though the more mobility is exacerbated by the abatement of economic and technological barriers, the more state agencies and governments seek to reclassify and differentiate the capabilities of those people and material goods that are entitled to move from those who don't.

However, strategies enhancing mobility or deterrence are not a sign of an “anomaly”; they rather complement one another and have become intimately intertwined. The two integrate a sort of circulation regime, the goal of which is to exacerbate those flows considered legal and beneficial for specific purposes according to states' policy and political preferences, while at the same time targeting undesirable, illegal, or risky movements that must be confined. Within the North American space the mobility side of the circulation regime has been earmarked by NAFTA and the economic interdependence exacerbated by the regionalization trend, while the confinement side has been epitomized by the prosecution of “illegal” material transactions or “unauthorized” moving of people, and after September 11, by “suspicious” and “risky” flows of any kind. The governance of mobility in North America is moving rapidly from the enforcement of deterrence to the governance of risk.

Ideally, the NAFTA regime in place since 1994 aimed at building a sort of “borderless economy”, the great metaphor dominating the ideology and narrative of global markets. This metaphor reflects well the spirit and backbone of the trade regime: to enhance and empower the circulation of goods and investment in the hands of firms and markets in order to boost wealth, productivity, and efficiency throughout North America, and to discipline state intervention in the economy. Nonetheless, the building of this circulation regime had to be accommodated with the reality of political enclosures and strategic imperatives of security. The creation of a borderless economic space has remained a metaphor since territorial and non-territorial borders were not barred nor banned by the NAFTA agreement. In fact it provoked the opposite, i.e. a progressive “securitization” of the Mexico-United States border once unauthorized migration and illegal trafficking exacerbated.

### **The Flaws of the Mobility Regime between Mexico and the US**

According to the Obama administration, the southern border has become more secure than in the past 20 years. To support this, the US government highlights that the Border Patrol is better staffed than at any time since it was created, that investigative resources have escalated, that surveillance mechanisms have stepped and that “shared responsibility” mechanisms with Mexico have developed. Indeed, Border States and cities in the US side are quite secure. While it is difficult to establish the link between violence, crime and drug trafficking organizations (DTOS) activities, official data show that crime rates in major border US cities have in fact lowered compared to the national average, and that in spite of the violence spurred in border Mexican cities there is no evidence of “spillover” violence to the other side of

the line. The border region in the US side is indeed secure: what has become insecure is the Mexican side.

However, the question should be raised whether a militarized and barricaded border has helped to deter illegal mobility coming from the south. Officially, one of the major goals of the staff, police and army based at the US southwest border is to stem and interdict the flow of drugs and illicit proceeds. Local and federal agencies normally assess the soundness and success of their activities by measuring drug seizures and human apprehensions and deportations. Following those standards, the record of the past years looks good: From 2005 to 2010, heroin, marijuana and methamphetamine seizures coming from Mexico have increased while seizures of cocaine declined. From 1991 to 2000 the amount of human apprehensions peaked above 1.6 million people to severely decline to little more than 300 000 in 2011. But those figures say nothing about drug consumption behavior in the US, or migrants' recidivism to US deportation. The decline in cocaine seizures of the past years means that Americans are consuming less of this drug or just substituting it with other drugs, explaining consequently the increase in seizures of heroin or marijuana? There are no records attempting to make the connections. Since the disruption of drug trafficking coming from Mexico is affecting prices and quality of illegal drugs consumed in the US, to what extent this reduces consumption, or simply consumption patterns adapt to the new circumstances. Though the Obama administration has accepted the demand side of the question, we don't know to what extent American people is becoming less addicted to illegal drugs.

The case of human smuggling and unauthorized traffic is much complicated. The more barricaded the southwest border became, the more illegal aliens trespassed the line. From the early nineties up to 2007, non-authorized population jumped from 2.5 to peak 12 million. This amount has declined to less than 11 million today, but no connection can be established between border deterrence enforcement and illegal human mobility. In fact, similar to what happens in drug markets, US demand for cheap, non-unionized and politically unprotected labor is commanding the cycle of illegal human mobility. The deep financial crisis witnessed by the US during 2007-2009 doubtless help to explain the decline of the non-authorized population. Deportations and a stricter surveillance in working sites explain as well part of that decline, but most probably the illegal flow will recover if the US economy witnesses a new boom similar to that of the nineties.

And then, of course, we have the "unattended" consequences of a barricaded line. The US border remain secure, with no "spillover" violence in border cities in the US side, but it has become highly unsafe and violent in key border cities of the Mexican side, i.e. Juárez, Nuevo Laredo and Monterrey. Disruption of illegal drugs coming from Mexico, fueled by Mexico's own strategy to combat drug trafficking organizations (DTOs) with the army, has spurred violence at the border and in many other cities and regions where territorial disputes arise among drug barons. Illegal migrants have become more vulnerable to US enforcement measures (assessed by the increase in their death toll), to smugglers, and to new risky routes they have to take in order to trespass the line. They also have become more stigmatized in the US, as witnessed by the proliferation of xenophobic legislation passed by state legislatures.

Furthermore, the thickening of the border has strained US relations with Mexico, making apparent the asymmetric conditions on how borders operate. While the trespassing of illicit drugs and people has become riskier and more expensive, but impossible to cancel since a demand of drugs and of cheap/unprotected labor is fueling the flux, illegal guns and money is being trafficked or smuggled from north to south. This illegal money and arms only fuel the violence and military capabilities of DTOs when they are combatted by the Mexican army or rival warlords. It is very recently that the US has accepted



that they are part of the problem but it is not yet clear how a “shared responsibility” will be translated in workable solutions. While the Obama strategy on drugs is to reduce consumption and treat it as a public health issue, the states of Washington and Colorado have already liberalized the consumption of marijuana, and other states seem to band wagon. The US has also become committed to pursue gun smuggling into Mexico, but operations such as “Fast and Furious” only highlight the complexity of the problem and how unilateral the so-called “shared responsibility” operates. More recently, President Obama has invited Congress to make a vote for regulating more severely the gun market in his country, but still this is done taking into consideration a raise on fatal shots among US citizens, and not considering the security and strategic consequences that an unregulated market has had for Mexicans.

### **Will Mexico and the US Agree in a Common Definition of Risk?**

After September 11 U.S. border politics rapidly shifted from the sovereignty-centered border game of protecting and exercising the monopoly of the state in deciding on the legal transit of “aliens” and goods in its territory, to a rather war-centered paradigm in which protection of the homeland, not only its borders and territory, but also its population, resources, and all their interconnections with the “outside world”, was at stake. This “war-centered” paradigm did not substitute the “sovereignty-based” one; they overlap and reinforce each other. The “historically embedded” territorial border is still to be protected against illegal aliens and drugs, but the focus shifted to those criminal aliens potentially linked to or exploited by terrorist purposes.

It is in this context that “smart borders” were conceived, as moving and changing checkpoints whose technology and knowledge-intensive mechanisms for screening and profiling suspicious or risky people aims at building a threat assessment for the homeland. According to Washington, “smart borders” and transport are intertwined, in the sense that every community in the United States, be it small or large, is interconnected with a worldwide transport infrastructure. Harbors, railroads, airports, highways, energy grids, virtual networks, and any flow conveying people or commodities are currently considered to be part of that “world-wide transportation infrastructure”. In other words, smart borders were not devised for deterring and confining peoples or goods, a task accomplished by barricaded lines. The tactical goal of these moving, flexible supervision checkpoints is not to interrupt or dislocate, but to enhance mobility for helping to differentiate risky movements from those that are not. In contrast with territorial borders embedded in historical national narratives and identities, smart borders are constantly moving and changing; they could be an embassy or consular premise; they function at customs clearance or preclearance; they could be activated when a cargo in a container is being registered in advance; they are in airports and aircrafts, in shipping routes and pipelines. Smart borders have thus the goal to promote, by using modern screening technology—digital analysis of fingerprints, irises and other biometrics—the “efficient” and “safe” transit of people, goods, and services across the homeland and its interconnections. Framed in those terms, Mexico became a de facto extension of the U.S. homeland and regained its strategic position as a “buffer area” whose main goal is to filter any potential threat or risk to US security and interests.

Though Hillary Clinton has considered DTOs operating in Mexico as “terrorist insurgencies”, there is no evidence of terrorist groups or activities operating in Mexico having as targets US citizens or a part of the American territory. Though Janet Napolitano has warned of potential spillover violence at the border, towns and cities along the US line remain safe and peaceful. The risk to the US is potential, but the way it is combatted has made of Mexico a risky space. The unattended consequence of all this is that the Mexican State risks of being “captured” by DTOs interests or becoming devastated by corruption and violence triggered by drug barons. Furthermore, Americans should raise the question on how the fragmentation of DTOs operating in Mexico is going to modify the way DTOs operate in the US.

Mexicans should also assess whether it still makes sense to combat DTOs whilst legalization of certain drugs, such as marijuana, is progressively legalized in the US.

### **Some policy options**

Cooperative border games between Mexico and the US should move from a unilateral deterrence approach to a shared vision and assessment of what is a common risk for the two nations.

However, Mexico should strengthen the Mexican side of the border in order to anticipate the smuggling of guns and bulk money. A replica of the US-made barricaded border is not the alternative (very costly and highly inefficient), but the strengthening of cross-border cooperation with US agencies and programs in order to trace, in US territory, the illegal mobility moving bound to the southern line.

What is a common threat to both, let alone, the three North American nations? If terrorism and terrorist-related activities is the common threat, barricaded lines are useless to cope with the problem. The two (three) countries should move for building a common threat assessment framework from which specific policy goals and targets should be defined. If DTOs and drug-related violence is the common threat, Mexico and the US then should move towards a revisited paradigm on drug abuse, consumption and prohibition. As the scientific record suggests, not all illicit drugs are equally dangerous and toxic. Tobacco or alcohol could be more harmful to health, if abused, than say, marijuana. The scientific evidence and medical gaze should be internalized in the discussion and policy making of the problem.

At present, the “war” against illicit drugs has emphasized the destruction of production and the disruption of their mobility, regardless of the changing behavior in consumption, and the changing behavior in the global supply. A similar pattern has dominated, although with the differences of the case, the mobility of non-authorized people. In the latter case, a bipartisan proposal has been announced to the American congress by the Obama administration. The proposal is not to enlarge or thicken the border line, but to decriminalize and make more transparent the circulation of people. A similar approach should be followed with the circulation of drugs -with all the caveats involved in this case.

If the liberalization of marijuana has been initiated at the state or subnational level, the three countries of North America should gradually converge on a common approach towards reclassifying the toxicity, and consequently the health risk, of psychotropic drugs, in order to top down the level of prohibition and bottom up tolerance.

At present, the risk of illicit traffic is being socialized in a discriminatory way. The war on drugs has killed drug barons but a great amount of non-criminal citizens. It is time to move part of the risk of drug abuse, to the individual abuser. As President Obama has recognized it, at the end of the day drug consumption is a public health problem.

In spite of the regional trends that are reshaping the North American landscape, territorial borders will persist. Needless to say, however, the debate in which public agencies, officials, social and individual stakeholders are involved should shift from the escalation of deterrence to the analysis and assessment of common risks, be it local, cross-border regional, North-American or global.

## AGREEING ON METRICS OF “BORDER SECURITY”: A POLITICAL PIPE DREAM DAMIEN SIMONNEAU

### **The problem: In Current Debate over C.I.R., Measuring “Border Security” is a Political Pipe Dream**

In post 9-11 western countries, the dominant security mindset is to securitize immigration. Indeed immigration, mostly an economical phenomenon, is constructed through the lens of national security and public safety. In the U.S.A., this process began in the late seventies and was accentuated after 9-11. For instance, the nexus between security and immigration is validated in the terms of the current debate to adopt Comprehensive Immigration Reform - C.I.R. The leaked White House proposal from February, 17th emphasized expanding border enforcement even though without seeming to tie it to legalization of undocumented immigrants. In the “Bipartisan Framework for C.I.R.” released by the ‘Gang of 8’ on January, 28, 2013 the prominent pillar is the one dealing with border security stressing the contingency of creating paths to citizenship for “unauthorized immigrants” upon securing the border. Thus set, it clearly appears that the “enforcement-first” strategy is and will be the dominant political strategy to tackle border and immigration issues considered together. This Op-ed will argue that discussions on C.I.R. are frozen in this nexus immigration-security where the main debate is how to reach an agreed-upon view on border security to open the way to immigration reform. It will overlook and criticize the mainstream metric to measure border security (C.B.P. figures) as a contribution to think border security ‘out-of-the-box’.

### **Obstacles and Opportunities: How to Measure Success in Achieving Border Security?**

Immigration trends are mostly based on economic factors as the reduction of the Mexican migration to the U.S. exemplified caused in priority by the last recession. Border security depends on perceived threats and risks and fundamentally also on who defines it. In the current Federal government, D.H.S. controls and is in charge of assessing threats and risks. This importance of perception is a characteristic of most security policy and allow for a political appreciation. In the current debate between advocates of immigration reform first or enforcement first, bureaucratic and political perceptions of the border impact on the evaluation of security. These different perceptions are competing between themselves. Local issues relevant and differentiated between each segments or corridors of the border also impact on the evaluation. Local policies such as Arizona ‘attrition through enforcement’ influenced the terms of the debate and the national perception of the issue. Arizona Governor Jan Brewer on a statement released on January, 28, 2013 explains: “Immigration reform will not succeed unless we have achieved effective border security” emphasizing the importance of feeling of security from those living at ‘the frontlines’. Her model of success in border security is the sealed Yuma sector. On the other side of the political spectrum, Democrats and Janet Napolitano first maintain and claim that the “border has never been more secured” in U.S. history. This claim is justified on the record amount of resources dedicated over F.Y. 2012 to militarization of the border: 17.9 billion dollars as demonstrated by a recent report by the Migration Policy Institute. Currently on the eve of discussion on C.I.R., it is also clear that the main showdown between Republicans and Democrats at the Congress has shifted from the question of “does the federal government have the ability to achieve border security?” to “how to measure and agree on success in border security so as to deal with undocumented legalization?” The problem of the metrics is thus particularly relevant but a pipe-dream to divert from solving issues at the border.

### **Policy Options: C.B.P.’s Metric and its Critics**

The often-cited indicators of progress on border security are C.B.P. statistics. One of the goals of C.B.P. is to tackle threats to national security defined as “all types of illegal entries” of people, weapons, drugs and contraband. This is measured thank to the different numbers of apprehensions of unauthorized

migrants, of drugs, money and firearms. The top-priority has been to deny entry to would-be terrorists. No reported cases of terrorist attacks in the U.S. that involved passage through the Southwest border has been reported which could be considered as a success. Actually, there is a lack of precise measure of terror activity except the "Aliens from Special Interest Countries" (ASIC) designation that does not only imply that the person is involved with terrorism. This risk is a potential rather than actual nature. However, illegal flows of drug continue in significant amounts. CBP officers and agents seized more than 4.2 million pounds of narcotics across the country in FY 2012. In addition, the agency seized more than \$100 million in unreported currency through targeted enforcement operations. This steady trend must maybe question that the source of the problem of drug smuggling is to be encountered on the side of the regular demand emanating from within the U.S. Concerning "illegal entry of unauthorized aliens", in F.Y. 2012, attempts to cross the border illegally totaled nearly 365,000 nationwide, representing a nearly 50 percent decrease since FY 2008 and a 78 percent decrease from their peak in FY 2000. These metrics are not sufficient to analyze the impact of enforcement outcomes. However, political communications is based on these figures which need to be more sophisticated. Indeed, C.B.P. is releasing the figures that its mother-department D.H.S. comments in a closed circle. For instance, when the flow of undocumented immigrants rises, border security advocates declare success because detentions by C.B.P. increase too proving the effort deployed by C.B.P. When the flow diminishes, success is also declared because detentions correspondingly decrease. Significant improvements in border control relies primarily on metrics regarding resource increases and reduced apprehensions levels, rather than on actual deterrence measures such as size of illegal flows, share of the flow being apprehended or changing recidivism rates of unauthorized crossers. Regarding the decrease of the number of apprehensions of undocumented migrants which are mostly debated in C.I.R., many other factors has to be taken into consideration such as the effect of the recession, the structural changes in the Mexican booming economy next to border enforcement by C.B.P. Another important point is the fact that these figures rely also on a decade of rising enforcement practices, namely more prosecution showing that immigration laws are being more strictly enforced today than before. This can be verified in the rising number of "removals" rather than "returns". Figures also have to be clearly specified according to each border corridors. For instance, a G.A.O. report released last December examines the apprehensions and data B.P. collects to inform changes on border security in the Tucson sector in particular. In Tucson sector, the decrease in apprehensions was by 68% from F.Y. 2006 to F.Y. 2011. However, the report noted "in the Tucson sector, there was little change in the percentage of estimated unknown illegal entrants apprehended by Border Patrol over the past 5 fiscal years, and the percentage of individuals apprehended who repeatedly crossed the border illegally declined across the southwest border by 6 percent from F.Y. 2008 to 2011", thus showing and concluding that CBP has to ensure to "develop milestones and time frames for developing border security goals and measures to assess progress made and resource needs", namely sophisticated statistics. The new B.P. plan for 2012-2016 has still to come out with these new milestones, since nothing particular is presented in the new plan.

Two other metrics can also testified on progress of border security. The first one could be the number of deaths or recovered human remains in the border areas to measure "unauthorized entries" through remote areas. For instance, Coalicion de Derechos Humanos compiled these numbers for the Pima and Santa Cruz counties to measure the effectiveness of deterrence. Their figures inform that 179 bodies were recovered in 2011-2012, compared to a pick of 282 in 2004-2005 but not really different from 183 in 2007-2008 or 2010-2011. The second one would be the measure of violence on the U.S. side of the border as measured by the F.B.I. showing the relatively low level of violence in major U.S. Border cities especially El Paso (facing deadly Ciudad Juarez) and San Diego. The metric used and its design tend to condition the political speech on border security. Despite global tendencies, everything and its contrary can be said politically about border security. A metric can be criticized and not be agreed-upon. Looking

for an agreement on this at the Congress is a pipe-dream. It is certainly time during this debate on C.I.R. to think 'out of the box' regarding border security.

### **Rationale and Recommendations: Alternative Metrics on Border Security or How to Rethink Border Security?**

Thinking out-of-the-box in border security is not denying the threats and issues affecting the lives of borderland people. Above all, it is a way to disconnect the constructed nexus immigration-security, especially in the way it is framed by politicians and Medias thus influencing perception of the border. Part of the "unauthorized entries" problem is due to the fact that previous enforcement strategies pushed thousands of economic migrants from Mexico and Southward into remote area in Arizona especially jeopardizing their life by pushing them in the hands of criminal organizations such as drug cartels. Straddling the borderland allows to envision a global aspect of border-games not only focused on U.S. self-defense against perceived "invaders", and to isolate key factors resulting in the "unauthorized crossings" of people, drugs, money and firearms.

The first recommendation for instance would be to tackle the issue of creating way for migrants to enter legally otherwise they will continue to cross illegally. Eric Olson and David Shirk in this regard recommend creating more legal avenues to enter the country legally by widening the gates with more elastic quotas for work visas. This added to a modernization and proper staffing at Ports of Entry would allow Border Patrol agents to fully concentrate on activities by drug cartels across border. Thierry Goddard, former Arizona Attorney General, is in favor of targeting functioning criminal organizations rather than the migrants arguing that "until the cartels are not eliminated, the border cannot be considered secure, period." According to him, the strategies of smuggling by the cartels have to be understood and fought not only at the border but also in hub cities inside the U.S. He also proposes to better scrutinize flow of money from the U.S. to the cartels in Mexico by monitoring wire transfers southbound of the border.

Political agreements on visa reform or on means and allocations to fight cartels' activities are likely more achievable than debating on if or not the U.S. border side is "secure" or not. In that sense, the current debate on global view of what a secure border means is just a political pipe-dream that will not solve the roots of the issues structuring the border games.

# HOMELAND AND BORDER SECURITY PROGRAMS ARE ROADBLOCKS TO U.S. AND NORTH AMERICAN COMPETITIVENESS

**EARL H. FRY**

In February 1999, French Foreign Minister Hubert Védrine referred to the United States as a “hyper power,” meaning a country that “is dominant or predominant in all categories.” In December of 2000, President Bill Clinton proclaimed that if the U.S. continued with its pace of economic growth and government surpluses, all publicly-held U.S. government debt would be paid off within a decade. At the time, this debt totaled 3.4 trillion dollars. In 2000, the U.S. accounted for over 31 percent of global GDP. During the eight years of the Clinton administration, 22.7 million net new jobs were created and in January 2001, the unemployment rate stood at 4.2 percent. NAFTA trade was flourishing and Americans were not required to carry passports in trips to Canada or Mexico. At many rural checkpoints along the border with Canada, U.S. agents would put orange rubber cones along the roadway and then go home for dinner.

## **Fast Forward to January 2013**

During the 12 years of the Bush and Obama administrations, a total of 4.8 million jobs were created and the unemployment rate in January 2013 stood at 7.9 percent. In the month before 9/11, 115 million people were working in the non-farm private sector, compared with 114 million in early 2013, even though the U.S. population had grown by 30 million. There were more full-time jobs in August 2001 than January 2013 and the median real net worth of American families in 2010 plummeted back to the levels of the early 1990s.

Publicly-held U.S. government debt skyrocketed to 11.6 trillion dollars in 2013, with Washington’s total debt burden standing at 16.5 trillion dollars. The U.S. share of global GDP has fallen by almost one-third over the past decade, with the United States in 2011 accounting for 21.4 percent of GDP in nominal terms and only 18.5 percent using the purchasing-power-parity (PPP) index. Most Americans have experienced a lost decade since 9/11, whereas the Asian Development Bank recently trumpeted that at the current pace, Asia in 2050 will account for over half of the global population, GDP, exports, and direct investment.

## **What Went Wrong?**

9/11 was one of the watersheds in modern U.S. history, but it is notable not only for the loss of almost 3,000 innocent lives that day, but also for the colossal missteps made by the U.S. government in reaction to this specific terrorist attack. Over the ensuing decade, America went abroad in search of dragons to slay, and at home it turned inward and adopted a Fortress America mentality. The defense budget swelled by 218 percent between fiscal year 2001 and 2013, the intelligence budget by 267 percent, and over a half trillion dollars have been earmarked for “homeland defense.”

In an effort to show it would do something about 9/11, a panicked Congress created the Department of Homeland Security (DHS) in 2002, resulting in the most massive restructuring of executive agencies since 1947. DHS is the epitome of multi-level bureaucratic layering, bringing together 22 disparate agencies ranging from the Plum Island Animal Disease Center and FEMA to the Coast Guard and Secret Service. With 240,000 employees and annual expenditures of 59 billion dollars, DHS is a labyrinthic nightmare incapable of making creative and decisive decisions in real time.

As Washington's policies steered the nation inward, the government began to distrust all foreigners and even many Americans. Borders with Canada and Mexico were tightened dramatically, and certain prominent leaders even claimed erroneously that some of the 9/11 terrorists had come from Canada. Americans themselves were forced by Washington to procure passports in order to travel within North America, and today about two-thirds cannot even make day-trips to Vancouver, Montreal, or Tijuana because they do not possess passports or enhanced driver's licenses. Over the past decade, the United States lost out on tens of millions of visits by foreign tourists because of onerous visa restrictions and an image that the welcome mat had been removed for foreigners. Ruefully, the U.S. tourist sector began to refer to the war on terror as a war on tourism.

Cross-border commercial flows have also been significantly disrupted. Component parts for vehicles being assembled by GM, Ford, and Chrysler's sister plants in Michigan and Ontario now face an average of six border inspections before the vehicle is fully assembled. This cross-border movement adds hundreds of dollars to the cost of a North American car because of border delays and extensive paperwork, meaning home-grown automakers are placed at a competitive disadvantage vis-à-vis European and Asian automakers which endure only one border inspection when they ship cars to the U.S.

The "security trumps commerce" ethos of DHS and other agencies has helped diminish the overall competitiveness of the United States in a rapidly changing world characterized by trans-Atlantic drift and a global shift to Asia and other emerging markets. This compartmentalized way of thinking has also caused serious damage to NAFTA, the efficiency of global and regional supply chains, and the overall quest to make the North American region more competitive on the global stage.

Since 9/11, the number of U.S. agents at the Canadian border has increased by six-fold to 2,200, and the number along the Mexican border by five-fold to 18,500. Fences have been built, drones and Blackhawk helicopters deployed, and panoply of electronic sensors and other equipment installed. At the end of the day, the GAO estimates that U.S. agencies have managed to make less than two percent of the vast 5,500-mile border with Canada and less than 50 percent of the 2,000-mile border with Mexico "secure." Tragically, as the U.S. has been transfixed with homeland and border security and going deeper in debt to secure the quixotic goal of complete safety from small terrorist cells, Asia and other regions have passed it by in terms economic competitiveness and job creation.

### **What Needs to Be Done?**

The United States must rid itself of its near hysterical reaction to the events of 9/11, especially toward its closest neighbors to the north and south. It must trumpet its own strengths and those of its North American partners and begin to reenergize the North American economic and commercial community. The three NAFTA countries rank number one, eleven, and fourteen in the world in terms of GDP. Together, they annually produce more than the 27 nations which comprise the European Union, and their combined population of 460 million is only slightly smaller than the EU's 500 million. In 2012, the United States exported more to Canada with its 35 million people than to the entire European Union, and exports to Mexico were more than twice as high as U.S. exports to China. The U.S. and Canada have for decades maintained the largest bilateral trading relationship in the world, and U.S.-Mexico bilateral trade is now the third largest globally.

Nevertheless, the North American partnership has lost momentum, in large part attributable to misguided U.S. homeland and border security policies.

The following changes are needed:

U.S. government leaders and the American public in general must cast off stereotyped images of Canada and Mexico. Canada is not a quaint little country to the north. Rather, along with Australia, it has experienced the fastest economic growth among all Western countries over the past decade. Canada accounted for 19 percent of the value of total U.S. goods exports in 2012 and bilateral trade sustains eight million U.S. jobs. Canada is also the number one foreign supplier of energy to the U.S. and its remarkable performance during the Great Recession can teach both Washington and Wall Street some invaluable lessons.

American images of Mexico start and end with drug cartels and illegal immigration. Both are serious problems, but Mexico is well on its way to becoming one of the ten largest economies in the world. Its GDP growth rate is outpacing its neighbors, and over the past 15 years almost half of all Mexicans have entered the middle class. Mexico was the second leading destination for U.S. goods exports in 2012 and bilateral trade provides six million jobs for American workers. Moreover, when Canada and Mexico “export” merchandise to the U.S., these goods contain respectively 25 percent and 40 percent U.S.-made component parts, compared with only 4 percent found in Chinese exports to the United States.

Washington should recognize and embrace the economic success of its neighboring countries and “thin” its two borders in order to facilitate North American-wide commerce and prosperity;

- Dismantle DHS and either eliminate some of its component agencies or transfer them to more pertinent departments. DHS is an unfortunate symbol of ill-advised U.S. policy priorities in the aftermath of 9/11;
- As the U.S. Chamber of Commerce has advocated, create a “world-class border” by modernizing ports of entry and halting the gridlock which is harming the movement of goods and people. Insure that special lanes for trucks carrying commercial goods and cars transporting FAST and NEXUS-qualified passengers can proceed at a brisk pace. Expedite the building of the new Windsor-Detroit Bridge, a structure which will be paid for in the short-term by the Canadian government;
- Cease the build-up in the number of Border Patrol agents and recognize that the northern and southern borders are very distinct and should be treated much differently. Criminal activity at the northern border with Canada is roughly one percent of similar activity at the southern border with Mexico.

Cross-border drug trafficking should remain a major priority and is potentially much more dangerous for the average American family than terrorist activity centered in the Middle East. Hollywood often gives a benign and even alluring image to illegal drug use, but this contrasts markedly with the frenetic weekend activity in hospital emergency rooms across the country, as medical personnel struggle to preserve the lives and well-being of young people who have overdosed on illegal drugs. Education and rehabilitation of users, not incarceration, are the best answer to the problem on the U.S. side of the border. Furthermore, a prohibition on transporting assault weapons and ammunition to members of the drug cartels in Mexico would lessen the barbarity of drug-related skirmishes which claimed 50,000 Mexican lives over the past half-dozen years.

Supervision in this area should be concentrated in the hands of law-enforcement, intelligence, and military personnel. The DEA, FBI, and other federal, state and local authorities must assume the leadership position and the Merida Initiative should be strengthened.



The Border Patrol must focus on the entry of illegal immigrants, but even this role may subside over time. In 1960, the average Mexican woman had 7.3 children, compared with 2.4 in 2010. The number of young people entering the work force is declining as a result of Mexico's dramatic demographic changes. Moreover, the Mexican economy is growing faster than either its U.S. or Canadian counterparts. There has been no net entry of Mexican migrants into the United States over the past few years, even though 10 percent of all people born in Mexico and 15 percent of working-age Mexicans currently reside in the U.S. If border impediments are eased and regulatory standards harmonized, global supply chains will be strengthened in Mexico and more jobs will be available for young people. In addition, if the North American countries are jointly successful in negotiating free trade accords with the Asia-Pacific nations and the European Union, this liberalization of trans-Pacific and trans-Atlantic ties should bolster Mexican job prospects;

Proceed at a brisk pace to create a self-sufficient North American energy sector. President Obama should approve the Keystone XL pipeline and President Peña Nieto should encourage the transfer of appropriate foreign technology and permit some foreign ownership in Mexico's energy sector. Mexico has huge potential to be a major energy exporter but its current performance leaves much to be desired. The development of shale oil and natural gas respectful of environmental standards, the modernization and expansion of electrical grid systems, and the promotion of a variety of renewable energy sources can lead to North American energy independence within a generation. Furthermore, the presence of abundant and relatively cheap energy sources will prompt growing in-sourcing of manufacturing facilities in all three NAFTA countries, plus accelerated inward direct investment from other parts of the world, helping to create well-paying jobs and easing the temptation to cross the two borders illegally.

Take advantage of the fresh starts in all three countries—Harper's recent majority government, Obama's reelection, and Peña Nieto's new presidency—and come together in a true partnership. Resolve to improve the border-crossing infrastructure and harmonize border programs and commercial-related regulations in general. Michael Hart has long lamented the "tyranny of small differences" which has perennially plagued cross-border collaboration and the rationalization of North American-wide commercial activity. This needs to change and must be spearheaded by the Obama administration. The 2011 Beyond the Border Declaration and the Regulatory Cooperation Council pieced together by Stephen Harper and Obama will be the true test case. If it works in a timely fashion, then it could later be extended to Mexico, resulting in a major surge in continental commercial ties. In terms of the movement of people, Canada and the United States might contemplate a Schengen-style arrangement, and this could also be expanded to include Mexico at a later date.

Obama and Peña Nieto should also move quickly to implement a temporary worker agreement, patterned in part after the current program between Canada and Mexico and incorporating some of the suggestions made by former Mexican President Vicente Fox. This would be of major benefit to U.S. farms and ranches and help to ease illegal trafficking into the United States while maintaining a steady flow of remittances back to Mexico.

Frankly, I am fearful that Beyond the Border and related commitments and timetables will be hamstrung by inattentiveness and budget pressures in Washington. Canada would then be relegated to its not atypical Rodney Dangerfield status vis-à-vis the United States. If this transpires, Beyond the Border will go the way of the Dodo bird and the 2005 Security and Prosperity Partnership (SPP) of North America, leading to a major setback in cooperation spanning both borders.

On the other hand, I am hopeful that the three national leaders will eventually recognize the urgency of going beyond NAFTA and forging an arrangement closer to a customs union. The World Bank calculates that North American economic integration is currently approaching 50 percent, far behind the EU's 73 percent and, surprisingly, even behind Asia's 50 percent. So much more can be done to enhance North American economic competitiveness in an extremely complex and interdependent world.

Ideally, Washington will take the first concrete step by swiftly revamping its disjointed homeland and border security programs, starting with its antiquated Maginot-Line treatment of U.S. frontiers with Canada and Mexico.

**MANAGING TRADE AND THE ECONOMIC IMPACT:  
PROVOCATIVE IDEAS FOR 2030  
GARY CLYDE HUFBAUER**

NAFTA has reached an age where, if it were a person, it could vote, drink, drive and join the military. What will this creature do as it matures into its thirties and forties – supposedly the most productive years of human existence?

This short essay offers several ideas, all intended to be provocative. They are guided by a single vision: in 2030, the movement of persons, goods, services and investment should not be much more difficult between Mexico, the United States and Canada than it is today between Sonora and Chihuahua, or between Arizona and California, or between British Columbia and Alberta.

To keep my feet closer to the ground, at the end of each provocative idea, I suggest a more immediate actionable measure.

**North American Passport**

Qualified citizens of each country should be eligible for a North American passport, renewable every 10 years. What privileges would this document bring? The holder could cross the borders through dedicated speed lanes (all equipped with Global Entry style electronic machines). She/he could be employed in each country (including government employment except for positions reserved on a negative list) or hold political office, without the need for an additional visa. She/he would be eligible for public benefits, such as medical care and adult training.

The definition of “qualified” is critical. In addition to the normal criteria of law-abiding, economically secure, reasonably healthy and linguistically fluent for holders, the passport might be launched with numerical quotas for each country (to be expanded over time).

Actionable measure: Persuade Bill Gates, Carlos Slim, Bill Gates and David Thomson to sponsor a commission past national leaders to study the issue – say Ernesto Zedillo, Bill Clinton, and Brian Mulroney.

**Recognition of Professional Credentials**

A tripartite federal body should be created to encourage and, if necessary after consultation and deliberation, compel mutual recognition of credentials issued by various federal, state and provincial licensing authorities. This thorny task will take years, but greater labor mobility for skilled professionals is the starting point for creating a single North American labor market.

In combination, the combination of a North American passport and mutual recognition of professional credentials can be seen as the “great leap forward” from today’s NAFTA TN visas.

Actionable measure: For NAFTA TN visas, expand the listing of professional categories and skills, the visa duration (say 5 years rather than 3), allow the visa holder to change employers, and create a fast track to citizenship.

**Border Infrastructure**

Congestion and inadequate investment are the norm at major border crossings. The Ambassador Bridge

saga is perhaps the worst example, but the San Diego/Tijuana crossing is a nightmare all its own. This set of problems should be addressed by creating border infrastructure agencies, mandated to ensure adequate bridges, roads, footpaths and inspection stations for speedy crossings, and empowered to levy fees and exercise eminent domain over territory within their jurisdiction. Each agency would be managed by a board, appointed by the governors and prime ministers of adjacent states and provinces. The respective federal governments should make annual financial contributions to the agencies, determined by an appropriate formula.

Actionable measure: Create a real-time website, updated hourly, that posts the average border crossing duration for each of, say, 20 major border cities.

### **Trusted Truckers**

The big idea is to make trucking, rail and air freight firms responsible for the contents of their cargo shipments, with random checks and audits by government officials. Responsibility means enforcement of product standards, guarding against contraband, payment of taxes (e.g., VAT and GST), etc. Speed lanes for qualified shippers already exist at several crossings, but these should be enlarged. Border checks should be reserved for a diminishing number of non-qualified shippers.

Actionable measure: Dramatically improve crossing times at the trusted trucker lanes on the Ambassador Bridge.

### **Single Energy Market**

Free flow of all forms of energy – petroleum, natural gas, wind, solar, nuclear, and electricity itself – should become the North American goal. As well as connecting their pipelines and power grids, the three nations should work to harmonize their climate policies. This means common carbon taxes and common abatement standards for reducing CO<sub>2</sub> and methane emissions. The last thing we need is a complex set of border adjustment to compensate for different climate measures in North America.

Actionable measures: Approve the Keystone pipeline. Improve the structure of electrical transmission fees so that carriers have a strong financial incentive to upgrade and connect the grid across borders (and between states and provinces). Do the same for natural gas pipelines between Mexico and the United States. Provide incentives for foreign firms to engage in deep water and shale drilling in Mexico.

### **Services Trade**

The United States and Canada are service economies to a much greater extent than their self-images as frontier farmers, hard rock miners, and steel workers would recognize. Mexico is moving in the same direction. Behind the border barriers to service barriers, especially Modes 3 and 4 (through FDI and the movement of natural persons), should be demolished. Many barriers reside in state and provincial legislation: national treatment should be rule except for service activities scheduled in negative lists, which must be far shorter than those agreed in NAFTA.

Actionable measures: All three countries should energetically promote the International Services Agreement. On a reciprocal basis, the United States should allow Medicare dollars to be spent for health care provided in Mexico and Canada.

### **Government Procurement**

The states, provinces and federal governments effectively reserve considerable amounts of government procurement to local firms, both for goods and services (e.g., road construction, data processing, and

training programs). NAFTA and the WTO Government Procurement Agreement made limited inroads but the exceptions exceed the coverage. The US “Buy America” restriction linked to stimulus funds (the American Recovery and Reinvestment Act of 2009) was particularly offensive. In 2030, open procurement should be the rule, not the exception, and a speedy dispute panel should be established to enforce the agreement in real time.

Actionable measures: States and provinces should be permitted by federal authorities to negotiate cross-border compacts to open their own government procurement on a reciprocal basis.

### **Investment Rights**

Citizens of each country, and their beneficially owned business firms, should have equal investment rights, including in “sensitive” sectors, such as media, airlines, shipping, mining and coastal real estate. These rights should extend both to establishment and mergers and acquisitions: public scrutiny for competitive or security issues should be no greater than for citizens or domestic companies.

Actionable measures: National ownership requirements should be eliminated for North American airlines. Cabotage should be permitted on the east and west coasts of North America and the Great Lakes by bona fide North American shipping firms.

### **SPS Standards and Agricultural Inspectors**

To facilitate agricultural trade, the countries should establish a single commission with the delegated power to promulgate common sanitary and phyto-sanitary standards for meat and produce crossing the borders. When common standards cannot be agreed, mutual recognition should be second alternative.

North American agricultural inspection should be conducted by a single agency, recruited from all three countries, and based some distance from the capital cities (the NORAD model).

Actionable measures: COOL should be replaced by a North American label. Common meat standards should be agreed. The agricultural inspection forces should delegate larger numbers to serve in partner countries (following the pattern of crop inspection in Mexico and meat inspection in Canada).

## CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM: A WAY TO ENSURE EFFICIENT TRADE FLOWS WHILE ENHANCING BORDER SECURITY

**LESLIE ALAN GLICK, ESQ.**

One topic that immediately came to mind that covers all of these issues is the Customs Trade Partnership Against Terrorism (C-TPAT) which is a voluntary program between U.S. Customs and Border Protection (CBP) and the private sector that serves not only the U.S. private sector but the Mexican and Canadian private sector as well. This program is a good example of how the government and private sector can work together to increase trade flow at the border and, at the same time, ensure supply chain security. The program grew out of September 11, 2001, which directly impacted CBP. Outside of its headquarters in Washington, CBP's largest operation was in the Port of New York located at 6 World Trade Center, a building that was demolished during the events of September 11. CBP had to find a new location and for many months, its operations were severely hampered due to destroyed records and disruption to their activities. CBP came to the realization that if the borders were going to be secure, CBP could not do this by themselves with their limited resources without a new approach. CBP only can inspect 2% of all the containers that enter the United States. We have learned from September 11 that we must think outside of the traditional box, that things like airplanes or cargo containers can become weapons. Every potential container that enters the U.S. could be a weapon of mass destruction or contain chemical or biological substances. Faced with this daunting task, CBP developed the C-TPAT program.

This was truly a partnership and in the early days, there was actually a document that was signed by the Commissioner of CBP and the company as a partnership agreement. As the program grew, it became more computerized and perhaps a little less personal and we no longer have the signed agreement. Today, the program has 10,500 members and more than 55% of the goods entering the United States are from C-TPAT-certified and validated companies. The large majority of C-TPAT members are importers. However, exporters in Mexico and Canada are eligible and have great incentives to join the program, but have not joined as fast as might have been expected. The program, theoretically, is quite simple. It is really a risk assessment program.

CBP uses a somewhat secretive targeting scores system to determine which entries to inspect. Inspections delay the movement of cargo and can be costly, particularly for companies that are on just-in-time inventory. They also pose additional problems for refrigerated and perishable goods. Off-loading your container at the border in the 110 degree heat of Laredo, Texas while CBP inspectors and dogs are going through it for several hours or more is not conducive to speeding up the delays at the border. One of the advantages of C-TPAT membership is that it lowers your targeting score. C-TPAT has various levels of membership targeting score lowers and your likelihood of inspections goes down. More importantly, even those companies targeted for inspection under C-TPAT are likely to be chosen for the less intrusive methods of inspection through x-rays. This x-ray equipment is very expensive, but it is faster and definitely less expensive and less time-consuming than having to unload 20 or 30 pallets with a forklift. The C-TPAT members are the ones that get priority going through this x-ray equipment in the larger ports where it is available. This is a distinct advantage for C-TPAT members.

In addition, C-TPAT members get other advantages, one of which is hard to duplicate, which is the commitment of CBP that in time of national emergencies or so-called red alerts, the first cargo that come into the ports belong to C-TPAT members. What this means is that our friends in Canada and Mexico will have a clear priority in moving their cargo into the U.S. over those coming from China, a

country that is not eligible for C-TPAT certification, or, in fact, from Europe and other countries that are not C-TPAT-certified. However, we have seen a movement toward reciprocity and Memoranda of Understanding (MOU's) with some other countries that have equivalent programs to the U.S.'s C-TPAT program that is tending to give some advantages to these other exporters in some countries that they have not had in the past.

One particular advantage of C-TPAT that has been a motivating factor to at least some of my clients is another program called Free and Secure Trade (FAST), which allows companies to use the fast lane at the border. We all know that delays at the border can be lengthy. The FAST Program is only open to C-TPAT-certified exporters, importers, and carriers. All three must be in C-TPAT, which makes the program a little bit more difficult to achieve. However, it is also a good motivation for people to join C-TPAT. As an attorney dealing with clients in a downward economic environment, it is hard to convince companies to spend time and money joining a voluntary program that they are not being forced to join by the government. However, economic pressures from customers can be a factor.

For example, a large company that produces and exports auto parts was not a C-TPAT member. However, their largest customer in the U.S., Chrysler, was. One of the aspects of C-TPAT that is interesting is that each C-TPAT member is committed to using other C-TPAT members as its suppliers and as transporters in its supply chain in order that it can ensure the integrity of its supply chain. Chrysler told my client that they wanted them to join C-TPAT and, particularly, get into the FAST Program so they could speed up movement of the parts to Chrysler's factories and help implement their just-in-time inventory. This resulted in the company asking how they could join C-TPAT. Despite this factor, only a small percentage of Mexican manufacturers and exporters or truckers that could be members of C-TPAT, have actually joined the program. Out of the 10,425 companies that were C-TPAT members as of December 2012, only 1273 were foreign manufacturers. This includes both Mexico and Canada. We know there are a lot more companies in Canada and Mexico that are exporting to the U.S., so there are a lot of strides that can be made in increasing the participation in this program. Of course, any program, whether voluntary or not, with the U.S. Government proposes burdens. There is a fear, particularly among foreign companies, that they don't want to get involved with a commitment to CBP that might put obligations on them and limit their flexibility.

Any C-TPAT member must meet minimum security standards. This usually involves such things as physical security, fences, cameras, alarms, guards, etc., as well as supply chain security, knowing your customers, tracking your shipments, doing verifications of your own suppliers' security, etc. In the course of 20 or more years of being a customs and trade lawyer, I have had at least three occasions when I have gotten that feared phone call from my client that their truck has been stopped in Laredo or Juarez, Texas and that they found drugs on the truck. Generally, CBP requires that you undergo an investigation and there is a special process when this happens to a C-TPAT company. In almost all of the cases, I have found that it was never the manufacturer or exporter from Mexico that was involved, but usually the trucker, the driver, or the so-called drayage companies, where the driver and cab change at the border for short hauls between Mexico and Texas. One of the problems is that the truck sometimes goes off of the radar screen for some time, where drugs are placed in the container. Techniques such as lifting off the entire rear doors of the truck without removing the seal have been developed by the drug cartels and in many cases, it is simple intimidation or bribery of the truck driver or often he or she is a participant. Greater use of GPS technology and efforts to track shipments is one way to deter this and is part of what CBP requires under the C-TPAT program.

Another area that CBP requires is cyber security. Obviously, knowing when shipments are going to leave and arrive, and having details about truck and container numbers, etc., makes it easier to interdict and introduce contraband. This information is easily obtainable in most computer systems of companies that import and export. Therefore, CBP stresses certain cyber security as part of the C-TPAT protocol. Some companies have objected that this is costly, although in my opinion, most of these are programs that companies would want to participate in regardless of C-TPAT attempts at their own security insurance premiums, etc.

Although C-TPAT is a "voluntary program," once a company joins, they are subject to annual validation visits and revalidation visits to maintain C-TPAT status. Also, they are required to do annual updates of their company security profile and of their partner compliance. This latter requirement has been an issue with some companies that prefer not to have to send letters and make visits to their suppliers and business partners to ensure that they are C-TPAT compliant.

Also, despite its voluntary nature, Congress in the SAFE Port Act gave C-TPAT some formal legal status by setting some standards and appeal provisions before a company can be removed from C-TPAT.

### **Conclusion**

The C-TPAT program is helping resolve the dual problems of border delay and security, but it is underutilized. This is due to inertia on the part of companies to spend time and money on a voluntary program not required by the government, and perhaps some fear element by Mexican and Canadian companies of becoming formally engaged in a partnership with U.S. Customs.

To move forward, CBP needs to do a better job of marketing the program and perhaps eliminating some of the bureaucracy that goes with it, making compliance more user friendly and providing more flexibility on their regulations (e.g., substituting cameras for fences when fencing is not feasible or too costly). The trend toward acceptance and recognition of other countries' programs similar to C-TPAT is increasing the effectiveness of the program in speeding cargo through the sea and airports since C-TPAT is focused more on land traffic between the three NAFTA countries.

More incentives for companies to join would be welcome. One frequent complaint about C-TPAT is that more requirements are added each year, but not necessarily more benefits.



# THE STATE OF TRADE, COMPETITIVENESS AND ECONOMIC WELL-BEING IN THE U.S.-MEXICO BORDER REGION

ERIK LEE AND CHRISTOPHER E. WILSON

## Trade and Competitiveness

Commerce between the United States and Mexico is one of the great—yet underappreciated—success stories of the global economy. In fact, in 2011 U.S.-Mexico goods and services trade reached the major milestone of one-half trillion dollars with virtually no recognition.<sup>14</sup> The United States is Mexico's top trading partner, and Mexico—which has gained macroeconomic stability and expanded its middle class over the last two decades—is the United States' second largest export market and third largest trading partner. Seventy percent of bilateral commerce crosses the border via trucks, meaning the border region is literally where “the rubber hits the road” for bilateral relations. This also means that not only California and Baja California, but also Michigan and Michoacán, all have a major stake in efficient and secure border management.

Unfortunately, the infrastructure and capacity of the ports of entry to process goods and individuals entering the United States has not kept pace with the expansion of bilateral trade or the population growth of the border region. Instead, the need for greater border security following the terrorist attacks of 9/11 led to a thickening of the border, dividing the twin cities that characterize the region and adding costly, long and unpredictable wait times for commercial and personal crossers alike. Congestion acts as a drag on the competitiveness of the region and of the United States and Mexico in their entirety. Solutions are needed that strengthen both border security and efficiency at the same time. The development of the 21<sup>st</sup> Century Border initiative by the Obama and Calderón administrations has yielded some advances in this direction, but the efforts need to be redoubled.

Moderate investments to update infrastructure and to fully staff the ports of entry are certainly needed, as long lines and overworked staff promote neither efficiency nor security. But in a time of tight federal budgets, asking for more resources cannot be the only answer. Strategic efforts that do more with less, improving efficiency and reducing congestion, are also needed. Trusted traveler and shipper programs (i.e. SENTRI, FAST, C-TPAT, Global Entry) allow vetted, low-risk individuals and shipments expedited passage across the border. Improving these programs and significantly expanding enrollment could increase throughput with minimal investments in infrastructure and staffing—all while strengthening security by giving border officials more time to focus on unknown and potentially dangerous individuals and shipments.

The border region tends to organize itself in terms of north-south trade corridors as a natural result of the cross-border relationships that facilitate the flow of goods. This phenomenon manifests itself in the development of everything from interest groups to regional border master plans. Without a doubt, economic development and competitiveness in the region is anything but uniform, ranging from the great wealth of San Diego to the pockets of severe poverty in the Rio Grande Valley, from the aerospace cluster in Baja California to the vast deserts of Sonora and Coahuila. Despite this tremendous diversity and even a fair bit of competition to pull trade flows into one's own region, border communities have more than enough common interests to warrant border wide planning, stakeholder organization, and the sharing of best practices. Recently, crime and violence in certain Mexican border communities has dominated the national perceptions of the region in both the United States and Mexico. To the extent

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<sup>14</sup> U.S. Department of Commerce, Bureau of Economic Analysis and Census Bureau, 2012.

that the border communities and border states speak with a unified voice, they will have a better opportunity to put forth their own narrative about the region and to call for appropriate revisions to national border policies.

## Security

**Increasing Federal Investment—and Involvement—in a Complex Binational Region**  
The state of security along the U.S.-Mexico border easily ranks as one of *the* most highly charged topics of public discussion and debate in *both* the United States and Mexico during the past several years. Concerns about global terrorism, potential threats posed by those entering the United States illegally, and fears that skyrocketing violence in Mexico might “spillover” into the United States have led to dramatic policy shifts and significant new investments by the U.S. to “secure” the border. Yet discussions about border security cannot be fully extricated from or effectively addressed in isolation from other policy areas such as trade and the environment. As demonstrated elsewhere in this report, the promise of free trade and increased commerce between both countries has never been stronger, but ironically, concerns about border security have also slowed economic integration and had a divisive effect on border communities.

Addressing the complex inter-play between security and prosperity at the border is further complicated by the confusing mosaic of overlapping networks of federal, state and local agencies charged with keeping the border area and two nations safe. Diverse policies such as the U.S.’ war on global terrorism; free trade agreements such as NAFTA and the pending Trans-Pacific Partnership; U.S. immigration policy; the Mexican federal government’s strategy to confront organized crime; the Merida Initiative; police and judicial system reform in Mexico; a rapidly changing governmental architecture; building interagency and cross-border collaboration and trust; border management and trade facilitation all play out in some fashion at the border sometimes effectively and productively, and in other instances very inefficiently. All of this has taken place in a context in which U.S.-Mexico bilateral relations have become both more collaborative and more controversial at the same time.

Ironically, many of these policies have little to do with the border *per se* but reflect broader *domestic* concerns regarding national security and public safety in the U.S. and Mexico. In large part, the border region is where these often controversial landmark international accords such as NAFTA and national policies “bump up against” stubborn on-the-ground realities in ways that are particularly challenging. To take just one example, there were no new land ports of entry built on the U.S.-Mexico border between 2000 and 2009, posing huge challenges for both commerce and security.

A snapshot of security issues at the U.S.-Mexico border reveals increasing though always controversial federal involvement in a region that has historically maintained a cultural and political independence from both national capitals. The unprecedented U.S. security buildup along the border post-9/11 stands out as a key feature of the increased federal role and is exemplified by the buildup in federal personnel. The U.S. Border Patrol now has over 21,000 agents assigned to the various border patrol sectors, a 518% increase in staffing since the early 1990’s. Additionally, investments in infrastructure (fencing) and technology *between* the land ports of entry stands in stark contrast to the multi-billion dollar deficit in ports of entry infrastructure<sup>15</sup> that hampers both legitimate trade and travel as well as effective security

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<sup>15</sup> Mikhail Pavlov, Customs and Border Protection, DHS, “Meeting Land Port of Entry Modernization Needs in Constrained Budgetary Environment,” presentation to the Joint Working Committee, March 14-15, 2012, <http://www.borderplanning.fhwa.dot.gov/filemanager/filemanager.aspx>.  
operations.

### **North-South and East-West Asymmetries**

Security asymmetries abound along the U.S.-Mexico border. As measured by Federal Bureau of Investigation crime statistics, U.S. border cities rank among the safest in the United States, and stand in stark contrast to the fragile-though-improving security situation in major Mexican border cities such as Ciudad Juárez. The disparity in crime and violence across the border is explained in part by the vast difference in institutional capacity (police, courts, etc.), yet this is not the only explanation. This paper underscores the remarkable difference between the *relatively* peaceful western end of the Mexican side of the border (which includes the states of Baja California and Sonora) and the four eastern states (Chihuahua, Coahuila, Nuevo León and Tamaulipas) that have suffered numerous high-profile, horrifying and deeply tragic mass homicides that have left a lasting impact on public sentiment and the public debate in both countries.

### **What is Needed Most? Creativity, Capacity-building, and Collaboration**

As the economies, cultures, and destinies of both nations become increasingly intertwined, both federal governments, the border states and communities will have to find new, creative and robust ways to increase public safety in the U.S.-Mexico border region. This will require greater capacity at the state and local level as well as greater creativity and patience at the federal level. Even though both countries have continued to strengthen cross-border collaboration—codified in official policy with the remarkable May 19, 2010 Joint Declaration on Twenty First Century Border Management by President Barack Obama and President Felipe Calderón—the U.S. and Mexico have only recently begun to make real progress on a bi-national security regime that is sustainable and “built to last.”

Lasting progress in U.S.-Mexico border security can only come from increased *bilateral collaboration* and *independent domestic progress* on key issues affecting security in the United States and Mexico. Significant progress has been made in increasing and improving bilateral security collaboration between federal agencies on both sides of the border. While a welcome development, these federal advances can, in some cases, weaken the long-standing cooperation between *local* U.S. and Mexican law enforcement agencies. While it is important to continue strong federal coordination, encouraging local collaboration can also yield significant and important dividends in fighting crime affecting cross-border cities.

Improved border management, a challenge during normal fiscal times, is particularly difficult in the United States’ constrained fiscal environment and thus requires increased attention and creative solutions. For example, the two governments—in close collaboration with border communities—should focus their efforts on making the land ports of entry from San Diego to Brownsville as safe and efficient as possible to enhance both our physical and economic security. Technology (principally in the form of various types of detection equipment) offers some hope in this area. While this technology has been deployed on the border *between* the ports of entry, the governments have not yet deployed technology in a game-changing way that could convert the ports of entry themselves into true platforms for economic security rather than highly congested and bureaucratized nodes in our North American commercial network.

### **Depressurizing and innovating in the border region**

Security in either country does not depend solely on what happens at the border. Rather, the more the two governments can push key security processes away from the border, the better. For example, disrupting illegal bulk cash transfers or firearms trafficking can be done more effectively through

investigations and intelligence operations away from the border than via random vehicle checks at the border.

Much work remains to be done in strengthening overall law enforcement capacity in both countries to challenge cross-border trafficking and criminal activity. For example, fully implementing justice reform and advancing police professionalization in Mexico, as well as disrupting the organizations engaged in migrant smuggling, human trafficking and moving illicit substances northward into the United States would be important steps forward. Likewise, the United States needs to demonstrate greater political courage and creativity to fulfill its commitments to reduce the demand for illegal drugs at home and disrupt the flow of weapons and money that exacerbate the violence associated with drug trafficking. Enhanced collaboration to fully implement justice reform in Mexico—the shift to an effective oral adversarial system of justice—would represent a critically important element of what the two countries might achieve together to create better security generally and in the border region in particular. What stands out about justice system reform in particular is that landmark constitutional reforms were passed by Mexico's Congress in 2008 with an 8-year transitional period established. Yet progress on implementation of the reforms has been slow, with no procedural reforms adopted at the federal level and only a handful of states fully implementing the reforms. Interestingly, border states such as Chihuahua and Baja California stand out for their implementation of reform and are in the vanguard of this fundamental change.

Additionally, progress in modernizing and professionalizing Mexico's multiple police forces and improving public trust in law enforcement will be critical to creating a safer U.S.-Mexico border region. The Calderón Administration made some progress in this area at the federal level but there is room for much more improvement at all levels of law enforcement, particularly at the state and municipal levels. As President Enrique Peña Nieto's begins to articulate his government's new strategy it is evident that he will continue and deepen some of the institutional reforms, seek to place greater emphasis on combating the most violent criminal activity – which tends to be local rather than transnational – and devote more resources to crime and violence prevention programs through greater social investments in the.

Ultimately, while the U.S.-Mexico border region enjoys a long history of independent thinking, new and innovative approaches will be needed to ensure the border area remains safe while also facilitating the enormous economic potential that exists between and among both countries. Achieving the delicate balance between federal and local needs, and economic versus security concerns, will require greater patience in the form of a more realistic (longer) policy implementation timeline, improved leadership, and creative thinking by all parties.

#### **A framework for measuring border security: key objective and subjective factors**

The purpose of this paper is to begin to set a base line for measuring border security between the United States and Mexico. Our plan is to re-examine these issues on a semi-regular basis, making adjustments to both the methodology and criteria as needed. To initiate this process, we have chosen to focus on four major areas to evaluate related to border security. These include incidence of terror related activity and warnings at the border; levels of violence on both sides of the border and an assessment of how these might be linked; seizures of dangerous drugs, money and firearms at the border; and efforts aimed at apprehensions of undocumented and unauthorized migrants.

In addition, border security is characterized not only by objective measures such as the above, but also by a broad spectrum of subjective factors including key U.S. and Mexican government strategies and

policies in response to border security challenges. These include efforts such as the 21<sup>st</sup> Century Border interagency initiative in the U.S. and Mexico and efforts to upgrade land ports of entry along our shared border. More specifically, national efforts include a broad range of rule of law efforts in Mexico, the new U.S. Border Patrol Strategic Plan 2012-2016 and anti-drug efforts in the United States and particularly Mexico. President Enrique Peña Nieto's security strategy will include a continuation of reforms for law enforcement, a re-focusing of the strategy on the most violent crimes and municipalities, and an increased focus on prevention programs as outlined in the recent National Plan for the Social Prevention of Violence and Crime that emphasizes social investment in 250 of the country's most violent municipalities. Finally, we make special mention of the impact of technology in border security, which has seen ups and downs over the past several years but which promises to change how our shared border is managed in the future.

### **A Note on the Transborder Development Index**

The Transborder Development Index (TDI) is the backbone of the Transborder Information System, a joint project between the ASU's School of Transborder Studies and El Colegio de la Frontera Norte intended to support decision makers in the public, private and social sectors. The TDI tracks four dimensions that are crucial for the integral development of the U.S.-Mexico transborder region: competitiveness, sustainability, security and quality of life.

The TDI aims to gauge the effectiveness of public policies, public-private partnerships, and citizen-based initiatives in moving the region toward higher development grounds and closing north-south and rural-urban development gaps observable along the border. It also aims to provide a platform to evaluate and envision policies and strategies capable of moving the region quicker along a trajectory of comprehensive development.

The TDI is a composite index comprised of sixty-four indicators grouped in four fully embedded and complementary sub-indices: competitiveness, sustainability, quality of life, and security. After an extensive assessment of existing data sources in Mexico and in the United States, a group of variables was selected to construct the indicators. As the building blocks of the index, variables had to meet the standard of theoretical relevance, as well as the conditions of temporal, spatial and conceptual comparability required for an index able to compare directly states and municipalities across and along the border. The final selection of variables and indicators was the result of a systematic evaluation process, guided by the goal of producing a measurement tool conceptually and methodologically robust, while maintaining an appropriate level of simplicity and transparency for its use in the public, private and social sectors.

The index provides a panoptic view of the current status and progress of the U.S. states of Arizona, California, New Mexico and Texas and the Mexican States of Baja California, Chihuahua, Coahuila, Nuevo León, Sonora and Tamaulipas, as well as the sixty-four counties and municipalities contiguous to the common international boundary.

# MEASURING SUCCESS

## MICHAEL KERGIN

### Introduction

Since September 12, 2001, when security was exponentially increased at the US' southern and northern borders, policy makers, aided by security officials ("defencemen") and shippers ("forwards"), have searched for the Holy Grail of border management: that fine balance between assuring the security of their citizens and facilitating legitimate cross border trade, so important to national prosperity.

But this search contains a conundrum: security is infinitely elastic ("you just can't have enough of it"), while trade is highly inelastic (subject to the tyrannies of time and costs of moving product across jurisdictions).

Can policy makers find the sweet spot between security and facilitation?

This paper will briefly examine some of the obstacles and opportunities associated with the management of the US' northern border (with which the author is more familiar). Some policy options will be suggested on the premise that any short term costs can be justified by the strategic benefit of enhancing *North American* competitiveness in the global economy.

### Security

In the context of border management, security is a relative concept, never an absolute (i.e. no measure can guarantee 100 percent security). As with the philosopher's arrow, one can infinitely half the distance leading to the target of perfection, but the target itself will never be reached.

One can, however, measure the arrow's progress towards the target during its trajectory.

The most obvious metric of enhanced security, of course, would be a comparison of the number of incidents measured over a continuum of time. To be meaningful, incidents must be carefully defined and catalogued by class of transgression. Principal types would be illegal transfers of people, including everything from child smuggling to undocumented workers; movements of illicit products, from materials of mass destruction and illegal drugs, at one extreme, to unregulated food products (e.g. sugar coated Cheerios), at the other; and crimes committed in the host jurisdictions directly traced to unauthorized entries. Each of these general types would need to be divided into sub categories.

The cataloguing of incidents should be accompanied by identifying, to the extent possible, the location of the border transgression so as to assess the weaknesses of specific crossings.

Defining and classifying incidents of illicit movements and transnational criminal activities, and their location, over particular time frames, will assist in measuring the effectiveness of current programmes, indicate failures by type of threat and suggest a rational re-allocation of resources by border location. Two qualifiers, however, should be factored into this essentially quantifiable model:

1. The degree to which the severity of the threats may vary over time. The demand for a given contraband, be it an undocumented labourer or a banned narcotic, may fluctuate so that the incidence of apprehensions may be unrelated to the relevant border countermeasures.
2. The second "known unknown" is the extent to which current border measures may act as a deterrent. In this case, illicit activities may decline simply because the risk of apprehension by

the security services has become too great. While this should be counted as a success for border security, it cannot be easily quantified. How do you prove a negative?

Accountability for the protection of each NAFTA member's citizens, of course, rests exclusively within the jurisdiction of the respective country. Cooperation among the three partners, however, enhances not only their collective security, but also improves their respective security.

Furthermore, the old slogan that "security trumps trade" must be replaced by the more forward looking dictum that "intelligent security can enhance trade". In this regard, a few implementation levers are suggested by way of example:

- Harmonization of risk management criteria;
- Information and intelligence sharing at the border and overseas;
- Compatible information technologies among the three partners;
- Increasing automation of border check points;
- Joint infrastructure projects at key border crossings;
- Pre-clearance pilot projects; and
- Joint security operations such as IBETs and Ship Rider.

Building on these efficiencies and extending their application will depend directly on the level of trust and confidence attained among the security policies and services of each of the NAFTA partners. For example:

- Can the US DEA afford to share highly sensitive intelligence with its Mexican partners, or the Canadians, for that matter?
- Can Canada and Mexico have confidence that US firearm regulations will be tightened sufficiently to reduce cross border weapons trade?
- Can Mexico have any expectation that its NAFTA partners will loosen prohibitions on selected illicit narcotics, thereby undercutting transnational crime profits?

Positive answers to some of these questions should result in less pressure for maintaining higher levels of border security with a corresponding easing of impediments to trade. The results should be measurable.

### **Trade**

As stated earlier, trade is elastic insofar that it is subject to quality, price and reliability. The latter two attributes are relevant to this discussion because each is determined by the product's ease of access to market.

Security obligations can impose the following obstacles to delivering goods to the buyer in another NAFTA jurisdiction, thereby reducing productivity and competitiveness:

- Timeliness: delay at the border adversely affects just in time delivery and ruins perishables;
- Transport: idling at the border wastes energy, pollutes the environment while increasing carrying costs;

- Transaction costs: customs filings, user fees and portable security devices add to the bills to be paid by the shipper or client; and
- Tariffs and quotas: inefficient administration by border security personnel will adversely affect product pricing.

Developing performance standards to assist in determining the extent to which innovations are contributing to trade facilitation is more challenging than a similar exercise on the security side of the border equation. A larger number of variables, independent of border management factors, will affect product acceptability with respect to price and reliability. For example, prices set by the manufacturer, quality and adherence to specifications, after sales service etc.

To the extent that some performance standards can be established, they might consist in establishing cost curves which compare two sets of identical products, one manufactured in-country, the other from another NAFTA jurisdiction. Using graphic representations, it may be possible to plot whether the comparative advantage of the cheaper (imported) product is outweighed by the incremental transaction costs of moving the product to the partner's market. This model assumes that there are no rules of origin issues.

Similarly, it may be possible to calculate whether reductions in border impediments have resulted in bending cost curves downwards for a given set of NAFTA products over a defined time frame, net of inflation, increased labour costs or currency fluctuations. (Comparisons might also be made between models of automobiles made in Korea going through one clearance procedure at Long Beach, California, against similar autos jointly manufactured by Canada and the US in the Windsor-Detroit area which cross the border six to eight times during the manufacturing process).

### **Conclusion**

In full disclosure, I had long been a sceptic of looking at border security from a trilateral perspective. The types of threats and level competencies were so diverse between the US northern and southern borders that it seemed detrimental to Canadian interests for us to be included in trilateral security discussions. We were better off working exclusively with the US.

My views have changed of late. The nature of the threats confronting our jurisdictions may still differ somewhat, but sufficient commonality exists for all three to benefit significantly from a cooperative approach. In addition, the level of competency of the security services in Mexico appears to have evolved over the past decade. A more integrated approach, fostering the sharing of new technologies, intelligence and best practices, can only contribute to more efficient trade flows and, by extension, enhanced *North American* competitiveness in a challenging global economy.



## NORTH AMERICAN BORDER PROCESSES AND METRICS

### MARIKO SILVER

On May 19, 2010 President Obama and President Calderón issued the *Declaration on Twenty-First Century Border Management* and created an Executive Steering Committee (ESC) to oversee its implementation.

On February 4, 2011 President Obama and Prime Minister Harper announced the U.S.-Canada joint declaration *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness* and created a Beyond the Border Working Group (BBWG) to craft an action plan.

Each declaration addresses a fundamentally different lived-experience of a U.S. border. What they have in common, however is that both describe a new understanding of the movement of people and goods, reframing the relationship between security and trade at the border.

In the U.S. - Mexico relationship there has long been a focus on the border both as a line on the map and as the lived experience of that line. The line is a defining issue in discussions of sovereignty and a figural matter in the development of policy stances in each country. The relationship is larger than that line, to be sure, but the line itself has persisted as a focus of discussion, and as a locus of tension. The contemporary U.S.-Canada relationship, by contrast, has largely not focused on the physical point at which our two countries touch. We have long thought of Canada and the U.S. in the same security sphere (as evidenced for example by NORAD<sup>16</sup>) and in the same trade sphere. In fact, there is a sense in the U.S.-Canada relationship that, while sovereignty is deeply important, before 9/11 the line itself mattered little if at all.

#### Beyond the Border:

Following the events of 9/11 and the United States' resultant intensified focus on borders and border security to prevent terrorism, many felt the traditional U.S.-Canada border relationship had been whittled away and the border "thickened." Where previously in many locations there had been, effectively, no border—that is, a line accompanied by minimal enforcement—now there was increased enforcement. Where people had crossed relatively easily between the two countries for work or leisure, now the border was a (largely unwelcome) presence in their lives. The shift in the border experience, and in communities' perceptions of the border, was perhaps best exemplified by the Western Hemisphere Travel Initiative (WHTI) which requires all citizens of the U.S. and Canada to present a passport or other WHTI compliant document that indicates citizenship and identity in order to enter or depart the United States. WHTI implementation became a perpetual point of tension in U.S.-Canadian policy conversations.

In Canada, where 90 percent of the population lives within 100 miles of the border, this shift was felt particularly acutely and brought into question for many the overall relationship, deep friendship, and long-held trust between the two countries. The idea that terrorists would come to the U.S. via Canada made most Canadians bristle (though before 9/11 the "Millennium Bomber" did plan to get to his target—the Los Angeles International Airport—by crossing into the U.S. from Canada via ferry). There was certainly border enforcement by both countries prior to 9/11. Both countries had monitored the movement of people and goods and enforced the laws governing both, but in the years following 9/11

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<sup>16</sup> North American Aerospace Defense Command (NORAD)

there developed an increasing sense that the border was more than a line on a map and that the relationship between the two close neighbors was becoming securitized in a way that was unfamiliar. There was community concern and economic concern (the U.S. and Canada enjoy the world's largest bilateral trading relationship) about this "thickening of the border." *Beyond the Border* (BTB) sought to reframe the policy conversation and the public conversation about the relationship between the two countries and the roles of security and trade, as well as of the border, in that relationship.

The core of the *Beyond the Border* declaration is its mutual commitment to "pursue a perimeter approach to security and accelerate the legitimate flow of people, goods, and services between our two countries." The declaration proposed to do this partly by the two countries working together to "address threats within, at, and away from our borders, while expediting lawful trade and travel." This articulation of the concept of perimeter security—once a forbidden term in Canadian policy circles—embraces Canada and the U.S. in the same security sphere as well as in the same economic sphere, and seeks to protect both from security as well as economic threats through strategic integration while maintaining clearly each country's sovereignty.

Unlike most previous post-9/11 efforts to reframe the security and economic conversation between the two governments, BTB did not originate as a top down agenda. Rather, it grew from an agency-initiated dialogue on both sides (starting with the U.S. Department of Homeland Security (DHS) and Public Safety Canada (PSC)) begun with mutual recognition that policy discussions around the border and related issues had stagnated. The goal was to come up with a new way to think about the relationship, and the border as part of that relationship, in order to refresh our ideas of what projects, programs, and initiatives the two countries could jointly pursue. As this DHS-PSC conversation developed, other agencies were brought in and high-level leadership on both sides expressed interest in broadening the effort while raising its profile.

Once the declaration was issued each country set up teams drawing on capabilities and expertise from across each government that comprised the bilateral Beyond the Border Working Group (BBWG) to build and execute an action plan that focused on the following four areas:

- Addressing Threats Early
- Trade Facilitation, Economic Growth, and Jobs
- Integrated Cross-Border Law Enforcement
- Critical Infrastructure and Cyber Security

Under each of these areas there are now multiple ongoing activities and efforts to harmonize or build compatible procedures, and share information in order to assess and mitigate risks. But this is not just a consultative process between two governments. The BBWG process was designed to incorporate the views and concerns of communities and industry as well.

The BBWG has since become an Executive Steering Committee (ESC) chaired by the National Security Staff (NSS) Senior Director for Transborder Affairs and Senior Director for Western Hemisphere on the U.S. side and a Senior Advisor to the Privy Council Office (who is also responsible for the work of the Regulatory Cooperation Commission) on the Canadian side. This bilateral ESC and its subgroups continue to pursue a range of initiatives to align and make more compatible Canadian and U.S. processes, protocols, and programs while also developing new initiatives including immigration and

entry-exit related information sharing, integrated law enforcement, and establishment of shared privacy principles

(For a more detailed 12/12 update sees

[http://www.whitehouse.gov/sites/default/files/docs/btb\\_implementation\\_report.pdf](http://www.whitehouse.gov/sites/default/files/docs/btb_implementation_report.pdf)).

The BTB process established a new frame for the U.S. and Canada's joint responsibility for the security of our shared communities and shared economic sphere, including the perimeter, a necessary condition for advancing economic prosperity.

The U.S.-Mexico *Declaration on Twenty-First Century Border Management* also focuses on what many now call co-responsibility, but in this case it is quite specifically co-responsibility for the management of the border itself (not the perimeter)—and the secure movement of legitimate trade and travel across that border. This is a significant departure from previous border conversations, as the border had long been considered a U.S. law enforcement problem, not a shared challenge for which both countries should take responsibility. The *Twenty-First Century Border* declaration emphasized the importance of the Mexican government and U.S. government counterparts working together to manage and guard the border. The declaration focuses heavily on the border itself and hinges on the “desire to fundamentally restructure the way in which the shared border between Mexico and the United States is managed” recognizing that “joint and collaborative administration of their common border is critical to transforming management of the border to enhance security and efficiency.”

The declaration does also engage issues that reach into the interior of both countries, including the need to disrupt and dismantle transnational criminal organizations, and to shift some screening and inspection activities away from the line itself so that the physical border need not be the locus of all border related enforcement activity. This element of the declaration complements the larger U.S.-Mexico work on security collaboration, for example through the Merida Initiative.

Like the BTB declaration, the Twenty-First Century Border declaration sets up a binational mechanism for implementation, the Executive Steering Committee (ESC), which draws high level participation from agencies across both governments and is tasked to focus efforts in four areas:

- Enhancing economic competitiveness by expediting lawful trade, while preventing the transit of illegal merchandise between their two countries,
- Facilitating lawful travel in a manner that also prevents the illegal movement of people between their two countries,
- Sharing information that enhances secure flows of goods and people, and
- Disrupting and dismantling transnational criminal organizations and punishing their members and supporters.

The ESC is the first such high level mechanism between the U.S. and Mexico that takes a holistic view of the border, and its relationship to the interior. It is the first time that the two countries have gotten together to discuss the border and its management in a comprehensive way that brings together all of the relevant government agencies on both sides. It is, in a sense, the bureaucratic embodiment of co-responsibility. The participating agencies and departments are even listed in the text of the declaration. This group was able to further parse the four areas in the declaration to define specific projects and

programs (some of which are listed in the declaration itself) that need to be addressed. The group houses these issues under three main working groups, all of which include representatives not just from the principal U.S. and Mexican counterpart agencies, but from all relevant U.S. and Mexican agencies. The working groups are:

- Border Infrastructure Planning
- Secure Flows
- Corridor Security

The titles of these groups, particularly the last two, also tell us something significant about the process that the ESC is overseeing. As in the BTB discussion with Canada (though confronting very different on the ground circumstances), the Twenty-First Century Border declaration reframed the previously understood dichotomy and antagonistic relationship between trade and security. Instead, it pairs security and economics by emphasizing a risk-based approach to improve the allocation of resources and increase the efficiency of the flows of legitimate people and goods across the shared border. Rather than viewing enhanced security as only dependent upon increased scrutiny (and therefore slower traffic) at the line itself, the new approach emphasizes the need to segment traffic based on risk, thereby moving known, legitimate travelers and cargo *faster* and more efficiently across the border, and thus giving law enforcement the capacity to focus on those travelers and cargo that are unknown or higher risk. Additionally, it embeds the idea of corridors and flows into ongoing policy development and discussion as ways of thinking about (and making policy regarding) the way we travel and trade. This expressly ties the border-as-line to a border-as-conduit concept and ties what goes on at the border to what goes on in the interior of both countries.

The BBWG and ESC processes and their results embody a rethinking of each of the United States' land border relationships. While the circumstances at each border are very different—as are the relationships the U.S. has with each neighbor—both efforts indicate recognition by the parties that borders are shared spaces of flows, not just lines on a map (or in the sand). The borders, and the relationships we build with contiguous land neighbors, provide opportunities for law enforcement interventions and economic exchange, as well as community development, that enhance the prospects for all three countries. Mexico now has a new administration in place and all indications are that the ESC process has already proven valuable enough to continue through this political shift. The U.S.-Canada process continues to evolve and to be an important engagement in the bilateral relationship. When looked at together with the work of the Regulatory Cooperation Councils (there is a U.S.-Canada RCC as well as a U.S.-Mexico RCC called the “High Level RCC” or HLRCC) these declarations and the work that has flowed from them paint a clear picture of efforts to make the borders loci of trade facilitation that encourage shared prosperity as well as points of security and enforcement. This view that, as the DHS Northern Border Strategy states, “Security and lawful trade and travel are mutually reinforcing” requires intensive cooperation between neighbors and shared responsibility for the security and viability of both the borders themselves and of the flows that connect us.

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## SETTING THE STAGE - STRATEGIES FOR THE NORTHERN AND SOUTHERN BORDERS

### DUNCAN WOOD

As my colleague Chris Wilson has laid out on a number of occasions, the border is a line between the two countries that serves to divide but also unite. In many ways the border is the nexus between the two economies and societies that brings them together through commerce, investment and communications, yet also serves to separate the one from the other.<sup>17</sup> As an artificial line in the sand, the border marks where one society ends and another begins, but of course that is an entirely false distinction, as the border region has always been a collection of unique societies in their own right, sharing much more in common with their counterparts immediately on the other side of the line than with the rest of the country.

At its most basic level, the challenge on both sides of the border centers on controlling and facilitating flows. This means putting in place infrastructure, procedures and cooperative mechanisms that block the majority of unwanted flows yet allow legitimate and necessary flows to cross the border as freely as possible. When we observe the progress that has been made over the last decade, it is impressive to observe how much investment has taken place along the border. Much of this stems from the vision that was laid out in April 2010 when the governments of Mexico and the United States issued a Declaration of the 21st Century Border, which stated that: “a joint and collaborative administration of their common border is critical to transforming management of the border to enhance security and efficiency.” The focus in the 21<sup>st</sup> Century Border project on the need for infrastructure spending, new measures to speed border-crossings and to relieve pressure on the border by enacting policies and programs away from the border, such as pre-clearance, increasing the number of visas for legal workers, employment pre-verification, and trusted traveler programs all hold great promise.

What’s more, the joint declaration by Presidents Calderon and Obama’s that “A key component of our global competitiveness is creating a border for the Twenty-First Century” struck exactly the right now. By focusing on the competitiveness theme, the Presidents recognized that the border is more than a problem; it is also an opportunity. The Presidents called for development and management of the border “in a holistic fashion and in ways that facilitate the secure, efficient, and rapid flows of goods and people and reduce the costs of doing business between our two countries”.<sup>18</sup>

The problem is that not nearly enough resources have been devoted to the project. While cross-border trade is five times what it was two decades ago, most major border ports of entry have “experienced major expansion or renovation since they were built several decades ago”. According to Customs and Border Protection (CBP) an extra \$6 billion in infrastructure investments are needed to fully modernize the border. This seems like a huge sum, but when we consider that “In the year that ended Sept. 30 (2012), the federal government spent \$18 billion on immigration-enforcement programs, dwarfing the combined budgets of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Drug Enforcement Administration and the Secret Service by about \$3.6 billion”.

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<sup>17</sup> Christopher E. Wilson, “A dividing line that unites: the U.S.-Mexico Border”, in *New Ideas for a New Era: Policy options for the next stage in U.S.-Mexico Relations*, Woodrow Wilson International Center for Scholars, 2013.

<sup>18</sup> Joint Presidential Declaration on the 21<sup>st</sup> Century Border, April 2010, <http://photos.state.gov/libraries/mexico/310329/16may/21st%20Century%20Border%20Vision%20May%202011%20Final-.pdf>.

This contrast in spending figures gives us a clue about the somewhat misplaced priorities of the U.S. (and Mexican) government when it comes to the border. Massive spending on border fencing, patrols and arrests has responded to political concerns about security and illegal immigration rather than a strategic vision of how to best manage the border in the best interests of the economy, national security, and quality of life for those who live in border communities. Instead, as a 2006 study estimated, in the San Diego area alone, “the total local economic impact of border congestion is \$2.259 billion in production losses (about 1.2% of the regional output) and 31,454 lost jobs (about 1.7% of the regional labor force)”.

The consequences of this under-funding of the 21<sup>st</sup> century border have been made particularly acute in recent weeks with the implementation of the Federal government fiscal sequester. Customs and Border Protection is being hit with around \$512 million in cuts in 2013 alone, and by early March had already issued furlough notices to its 60,000 employees. This will clearly impact on both border crossing wait times and on the ability to control illegal crossings.

In light of this chronic underfunding, and the acute situation facing us today, it is crucial that the two governments work on reenergizing their focus on the border. Several priorities emerge.

Focus on border crossings rather than the spaces between them. The intensive focus on the illegal immigration “problem” in recent years has resulted in enormous spending on patrolling the border between crossings, rather than devoting those funds to improving border crossings themselves. Such improvement would center on adding new infrastructure, new CBP agents, and new technologies that would speed border crossings while increasing controls over illegal flows of drugs, weapons and humans.

The need for a focus on border crossings cannot simply involve the U.S. government. It is high time that Mexican authorities devote resources to improving infrastructure on its side, with increased security, improved checks on southbound goods and people, while at the same time providing more lanes for northbound traffic. There are encouraging signs early in the Pena Nieto administration that the new government is willing to spend on infrastructure and recognizes the importance of the border.

Funding this new infrastructure will be a challenge, particularly in view of the fiscal problems in the United States. Public private partnerships at the border, involving fee-based border crossings, make more sense than ever before, and could provide a much needed boost for bridges, and express lanes.

Mexico’s southern border is more important than ever, and joint action between the U.S. and Mexico there is crucial. It will be impossible to patrol the border effectively along its length, but strengthening formal border crossings will help to regularize traffic. Given the problems with violence, migration and disease, such action is urgent.

The need for information exchange and understanding is a joint action. One of the most important advances of the past decade has been the implementation of trusted traveler programs (TTPs). The time has come to unify and expand the existing programs (Sentri and Nexus) so that a truly North American TTP can facilitate movement for frequent travelers. It makes sense for Global Entry to become the standard for travel in the region and beyond, and the U.S. government should consider a more aggressive marketing campaign for the program.

The FAST program (Fast and Secure Trade) is an initiative that also requires further investment. Most of North America's trade moves by road, and making it easier for trusted truck drivers to move seamlessly across the region's borders makes good economic sense. More companies should be encouraged to join the C-TPAT (Customs-Trade Partnership Against Terrorism) program as it is the gateway to FAST.

At the border itself it is vital that information exchange becomes a priority between authorities. A case in point is the challenge faced by Mexican border mayors who weekly receive thousands of Mexican and Central American deportees into their cities, commonly left there by U.S. authorities with little or no information about their background. This poses a serious threat to public order, to social security and health systems, and could easily be addressed by a simple exchange of information between federal authorities, who then pass on the information to their municipal counterparts.

One of the most fruitful initiatives on the Canada-U.S. border has been the IBETs (Integrated Border Enforcement Teams) program. The IBETs program is comprised of both Canadian and American law enforcement agencies:

- Royal Canadian Mounted Police (RCMP)
- Canada Border Services Agency (CBSA)
- US Customs and Border Protection/Office of Border Patrol (CBP/OBP)
- US Immigration and Customs Enforcement (ICE)
- US Coast Guard (USCG).

The partnership enables the five core law enforcement partners to work together for more efficient sharing of information and intelligence. There is great potential for increasing understanding and effectiveness on the U.S.-Mexico border through a similar program, particularly with regards to maritime enforcement.<sup>19</sup> There may even be scope for making IBETs teams trilateral in nature so that Mexican officials can learn from the experience on the U.S.-Canada border.

In 2012 Stephen Kaplan published *The Revenge of Geography*, in which he emphasized the enduring importance of geography and geo-politics in the modern world. In the case of our region, geography has become a huge competitive opportunity for all three NAFTA partners. Jointly implementing measures that allow us to take full advantage of that opportunity should now be a priority for our governments.

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<sup>19</sup> I am indebted to Christopher Sands for this insight.

## **AFTERWORD**

### **D. Rick Van Schoik**

When President Obama met with President Peña Nieto in early May of 2013, the tone of the dialogue between the two nations had changed dramatically from when the President Obama last met with then-President Calderon. Before the elections in Mexico and United States, the continental context and bilateral relationship was about how the two nations were going to make the continent and the border safer. The focus was on fighting transnational crime organizations.

We find both the context and content changed so that when the three leaders convene at the North American Leaders Summit later this year they can build upon making the continent and the borders more productive and the citizens more prosperous. Surely new trade agreements to the east and west will enter the “trialogue” as they should as each nations and the whole of the continent realizes the benefits when we approach trans-oceanic trade from a common perspective. Since each of us exports content from the others when we trade with the world, we all benefit.

NAFTA can be reborn with all the promise that the original agreement stood for as we bring down more barriers to trade and as we continue to make North America the most competitive region in the world make place.

The Trilateral Border Summit, the first of many, captured and herein forwards many of the best policy options to take advantage of this new perspective.

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