

Toward a **New Frontier**

Improving the U.S.-Canadian Border



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Toward a New Frontier

Improving the U.S.-Canadian Border

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"Unfortunately, both Canadian and U.S. business communities are expressing a serious and growing concern with the increasing costs and delays associated with crossing the border. (...) A sense of frustration exists within the Canadian and U.S. business communities that many practical measures that could reduce border-related costs have yet to be taken."

"Finding the Balance: Reducing Costs While Strengthening Security"

Joint Report of the U.S. and Canadian Chambers of Commerce, February 2008

"Anecdotes and reports from the border suggest this is in part due to a more involved U.S. border screening process. Traffic is down at three of the four international bridges in the Niagara area, yet wait times are up; processing time at the Peace Bridge, for example, increased 32 percent in August 2007 versus a year ago. Bridge travelers say inspectors are taking more time to clear travelers and asking veteran border crossers new questions. New requirements for proof of citizenship to enter the United States pose new uncertainties. These conditions threaten to crimp trade and commerce, at a time when the region and both nations have tremendous shared stake in enhanced economic integration."

John Austin, Elaine Dezenski, and Britany Affolter-Caine

"The Vital Connection: Reclaiming Great Lakes Economic Leadership in the Bi-National US-Canadian Region" Brookings Institution, March 2008

"Today, the border is no longer unobstructed and its condition is less than proper. Over recent years, the border Canada shares with the United States has become the subject of unprecedented attention, from a security perspective and from an economic imperative."

Michael Kergin and Birgit Matthiesen

"A New Bridge for Old Allies" Canadian International Council, November 2008

"I came to Canada on my first trip as President to underscore the closeness and importance of the relationship between our two nations, and to reaffirm the commitment of the United States to work with friends and partners to meet the common challenges of our time. As neighbors, we are so closely linked that sometimes we may have a tendency to take our relationship for granted, but the very success of our friendship throughout history demands that we renew and deepen our cooperation here in the 21st century. We're joined together by the world's largest trading relationship and countless daily interactions that keep our borders open and secure."

President Barack Obama

February 19, 2009

Executive Summary

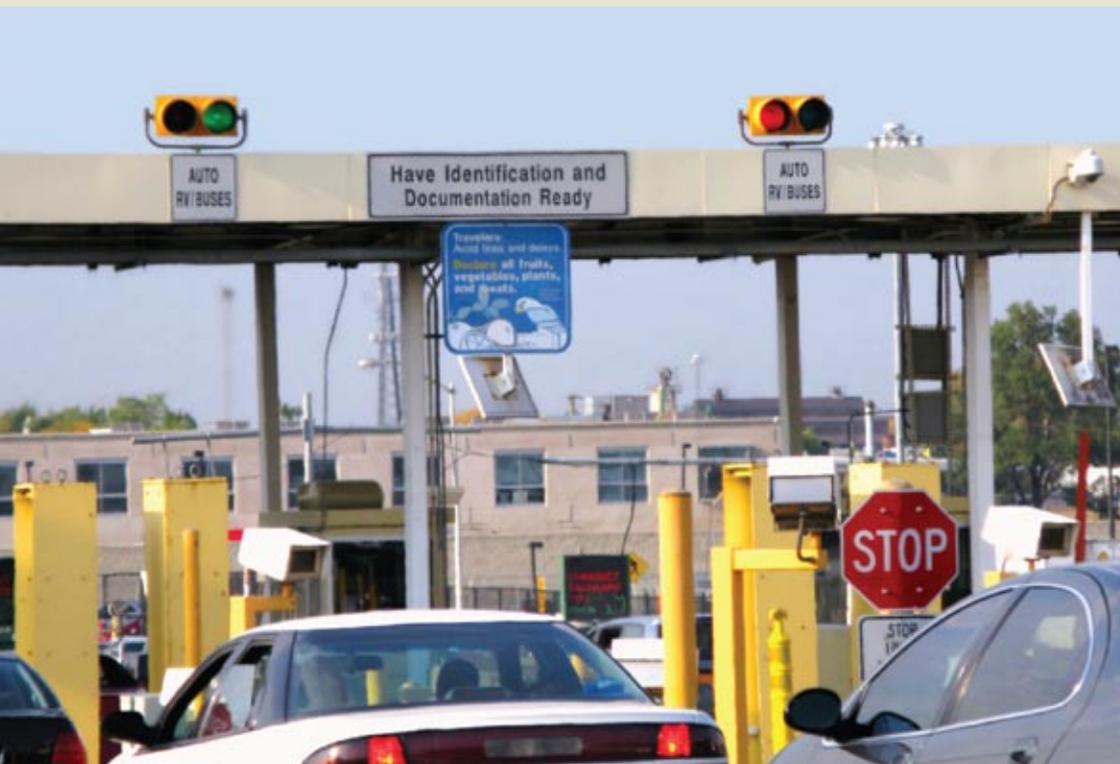
In an age of international terrorism and illegal immigration, a well-functioning border is vital for homeland security. For the United States and Canada, however, it is also vital for national prosperity, for each is the other's largest trading partner, and much of that trade is in intermediate goods that support the bi-national production of finished products, most notably autos. Roughly 400,000 individuals cross the border every day, many with deadlines for delivering cargo or reporting to work. This trade and travel supports jobs throughout both countries.

Since 9/11, however, security concerns have trumped economic ones, leading to delays and higher costs for the cross-border movement of people and goods. Several initiatives have attempted to address these problems, most notably the U.S.-Canada Smart Border Action Plan and the Security and Prosperity Partnership. They have achieved some success, but the unfortunate reality is that the border today remains a source of considerable user frustration and economic drag.

This report focuses on the policy process itself and on the conditions that shape its outcomes. In particular, it argues that progress requires taking greater account of the variety of ways in which the border is used by different categories of users in different places.

There are four geographically distinct corridors or "gateways" along the U.S.-Canada border: the Cascadian gateway in the Pacific Northwest, the Great Lakes gateway in the Midwest, the extensive Rural gateway in less populated areas, and the continent spanning Perimeter gateway. Each requires a different mix of technology and infrastructure to respond to unique regional conditions.

There are also five identifiable types of U.S.-Canadian border users: Commercial shippers, energy shippers, regular commuters, amateur travelers, and, of course, illicit border crossers. Each is found in varying degrees within the four border regions, further enriching the heterogeneity of the border. Yet the post-2001 border strategy has emphasized uniformity, with one-size-fits-all rules that ignore this diversity, and at times have falsely equated conditions at the U.S.-Canadian border with those at the more difficult U.S.-Mexican border.



At present, borderlands communities have no channel for regular input on key policy issues, and regional differences are often overlooked by “one border” rules and programs that result in uneven performance. Some categories of U.S. border users have seen their specific needs addressed, but much more could be done to improve communications and to customize policy implementation. Moreover, the U.S. government agencies concerned with economic flows and those responsible for national security could do far more to reconcile their competing purposes in a fashion that optimizes security and prosperity.

President Obama acknowledged during his visit to Ottawa in February 2009 that too often in the past, the United States has “taken Canada for granted,” allowing problems to fester and opportunities to work together to be lost. Such an opportunity now exists, and not only because there is a new administration in Washington and a new willingness on the part of the Canadians to think boldly about working with the U.S. The current recession has hit the auto industry with particular force, and the auto industry is both the biggest component in U.S.-Canada trade and a prime example of the bi-national integration of North American manufacturing. The “Detroit Three” U.S. auto makers depend on an efficient border, as does Michigan, the state with the nation’s highest unemployment rate. More generally speaking, for many American firms to remain competitive in the global economy, their extensive Canadian supply chains and just-in-time inventory systems must function well, and the current recession makes this an opportune moment to tackle any problems occasioned by the border.

The keys to making the best use of this opportunity are to partially decentralize border policy management and thereby enable problems to be identified and resolved with greater precision and sensitivity to regional concerns. If these process improvements are undertaken by the Obama administration, the underbrush of concerns that fragments responses from regions and user types and bedevils the U.S.-Canadian border could be cleared away, and a path toward an inclusive consensus on the future of the U.S.-Canadian frontier could emerge. In short, the time is right for instituting reforms that will resolve particular problems and open the door to a broader dialogue about a “new frontier” for the 21st century, a truly modern border that could be a place of innovation and serve as a model for progress on

the management of other borders. With that in mind, this paper recommends the following:

- **Create and engage a state-level Homeland Security Network;**
- **Ensure that performance evaluations of Customs and Border Protection Port Directors and other local representatives of the federal government include assessments of their efforts to develop relationships with local governments and stakeholder groups;**
- **Emulate the 30-point U.S.-Canada Smart Border Action Plan on a local level;**
- **Empower local federal officials in ways that ensure greater lateral communication and resource-sharing without recourse to Washington;**
- **Adopt a Total Quality Management (TQM) model of continuous process improvement at the border;**
- **Congress should authorize funds for a Border Security Pilot Project Challenge Fund to test new ideas;**
- **Publicly adopt a two-speed approach to the Canadian and Mexican borders;**
- **Reform but do not abandon the Security and Prosperity Partnership;**
- **Form a U.S.-Canada or North American Joint Infrastructure Planning Commission. ■**

U.S. government agencies concerned with economic flows and national security could do far more to reconcile their competing purposes to optimize both security and prosperity.

Introduction

Approximately 400,000 businesspeople, truckers, tourists, and regular commuters cross the U.S.-Canada border every day. Many of them do so to engage in the commerce that makes the two countries each other's largest trading partner by far.

Others do so because they live in border communities and cross the border frequently to work, play, or shop. For them and many others, it is important that the border function well—that it facilitate the movement of legitimate people and goods as well as prevent the passage of terrorists, smugglers and illegal immigrants. It is especially important for the global competitiveness of those industries, most notably autos, whose supply chains crisscross the border, and for the prosperity of those metropolitan areas whose economies are tied to cross-border activity. Yet, it is also important for the hundreds of inland communities connected to the border by the rail corridors and Interstate highways that carry trade and travelers between the two countries.

Unfortunately, the border today is not functioning well. People who live near it and people whose livelihood depends on the efficient movement of goods and people across it all relate that there is much room for improvement. The problems they point to—of long delays, high compliance costs and more—may not constitute a crisis, but they are slowing economic recovery and weakening our capacity to compete globally.

These recommendations identify immediate problems with new precision and advocate a more decentralized and consultative approach to border management.

The beginning of a new administration in Washington is a good time to ask what could be done to improve the management of this 5, 525 mile border. What new policies would expedite legitimate cross-border movement without compromising homeland security?

This report tries to answer these and related questions. It begins with a brief history of recent attempts to improve the way in which Canadians and Americans manage their shared border. It then presents a diagnostic approach to understanding the border as it operates today, accounting for the diversity of the border along three dimensions: regionally; by border user type; and then by jurisdiction, including the overlapping federal and local jurisdictions that remain relevant to border policy reform. Finally, it offers a short set of practical policy recommendations for how U.S. and Canadian governments can address the most pressing border concerns of key stakeholders and, in the process, increase the competitiveness of both nations and pave the way for consideration of broader, longer-term reforms.

These recommendations identify immediate problems with new precision and advocate a more decentralized and consultative approach to border management. Such decentralization will facilitate fixing existing problems and help to establish conditions for the development of a new U.S.-Canada border consensus—one that encompasses stakeholders on both sides of the border, across all regions, and among all major user types. ■



CHILDREN OF A COMMON MOTHER

MAY THESE GATES NEVER BE CLOSED

Understanding the Old Frontier

For years, the United States border with Canada was called “the undefended border” because the two countries had been at peace since the conclusion of the War of 1812 (in 1814). But this nickname was always a misnomer: From 1749 until the present, great empires and the two countries that eventually emerged from them guarded their border and settled disputes about where it should be fixed.¹ Significant 19th century disputes emerged over the Maine and Alaska boundaries, and over the Strait of Juan de Fuca. Confederate sympathizers crossed from Canada into New England conducting raids during the American Civil War, and Irish nationalists, known as Fenians, conducted raids into Canada (then part of the British Empire) from American soil from 1866 to 1871.

All this activity led to efforts on both sides of the border to secure the frontier, initially with a series of border forts, later with clear boundary markers placed by a joint boundary commission. Conflicts at the border became infrequent and less serious as the Anglo-American rivalry (Canada was part of the British Empire) gave way to an Anglo-American alliance in the 20th century, but the border was never truly “undefended.”

Yet, as President Obama recently acknowledged, the border has often been neglected by the United States. The most important reason for this has been the warm relations between the two countries. Thousands of young soldiers from Canada and the United States fought together in the First and Second world wars, and the industrial heartland of Ontario and the U.S. Great Lakes economic region coordinated wartime production on an unprecedented scale. In 1956 President Dwight Eisenhower and Prime Minister Louis St. Laurent signed the Defense Production Sharing Agreement, integrating arms production. In 1959, after years of wrangling, the St. Lawrence Seaway opened,

connecting the Great Lakes to the Atlantic for trans-Atlantic shipping for the first time.

Trade between the U.S. and Canada grew in the postwar years as more and more sectors integrated production to better supply customers through economies of scale. This was especially important for Canada, with a smaller population that was spread out geographically across the continent. Once it lost access to British Empire markets when Britain gave up its colonies, Canada grew to depend more than ever before on U.S. markets. In 1965, responding to calls from Detroit carmakers, President Lyndon Johnson and Prime Minister Lester Pearson signed the Agreement Concerning Automotive Products, known colloquially as the Auto Pact, integrating automotive production. Motor vehicles and parts were the largest traded item between the two countries for decades after, and cross-border shipments grew dramatically. In 1982, total two-way trade between the United States and Canada amounted to \$170 billion dollars (1996 constant U.S. dollars) and the two countries shared the largest bilateral trading relationship in the world.²

For the United States, Canada has long been a source of raw materials, and still is, but grew into a significant export market as well. No country purchased more from the United States in the 1970s, 1980s, 1990s or even the current decade, when Canada has consistently accounted for one out of every five dollars in U.S. foreign sales. Cultural

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affinity and Canadian appreciation for American brands and innovation have led to a growing trade in brainpower: a sophisticated service trade that sees medical professionals, architects, software engineers, and artists collaborate on projects located north or south of the U.S.-Canadian border, or in cyberspace. The easy movement of people, small packages, and electronic data across this border is a key ingredient to some of the fastest growing areas of bilateral economic activity.

In 1986, President Ronald Reagan and Prime Minister Brian Mulroney began the negotiations that led to the Canada-United States Free Trade Agreement. That same year, immigration across U.S. land borders gave rise to concerns about the effects on American jobs, and Congress passed the Immigration Reform and Control Act of 1986 (IRCA) to restrict the flow of illegal immigration. Nonetheless, the Canada-United States Free Trade Agreement was credited with a dramatic jump in border crossing, with 285 million North American resident cross-border visits made in 1990.³

When the North American Free Trade Agreement (NAFTA) was being negotiated, congressional leaders told President George H.W. Bush that before the agreement could be considered for ratification, it would be necessary to pass new legislation to invest in technology and infrastructure at the border in anticipation of similar surges in cross-border traffic volumes.⁴ Following the election of President Bill Clinton in 1992, Congress was able to pass the Customs Modernization Act of 1993 but a companion Immigration Modernization bill proved too contentious. Nonetheless, President Clinton ordered a temporary transfer of one third of the customs, immigration and border patrol personnel from the northern border to the southern border in order to secure the ratification of NAFTA by a close vote in November of 1993.

In the U.S. midterm elections in November 1994, voters in the United States elected a Republican majority in the House of Representatives led by Newt Gingrich, and voters in California approved Proposition 187 which denied public services to illegal immigrants in that state. Proposition 187 was challenged in court and never took full effect, but it recast immigration as one of the most politically-charged and contentious issues on the national agenda, where it remains today.

One consequence of the charged atmosphere surrounding immigration in the United States after the 1994 election was the tougher language in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act that required that a record be kept of every person who exits or enters the United States. This sparked

a strong reaction in Canada. NAFTA seemed to presage an era of open access for Canadians to the United States, and so the 1996 immigration legislation came as a surprise to Canadians, 90 percent of whom live within 150 miles of the U.S. border and cross frequently for business and pleasure. The government of Prime Minister Jean Chrétien reacted to this unexpected challenge by encouraging a series of domestic and bilateral discussions on border management and security between 1996 and 2000, including: the Shared Border Accord, the Border Vision Initiative, the Cross-Border Crime Forum, the Canada-U.S. Anti-Smuggling Working Group, and the Canada-U.S. Partnership which held two meetings between federal officials in both countries and local stakeholders in 2000.

Border Management in the Wake of 9-11

The grounding of aircraft and tightening of border security immediately following the September 11, 2001 attacks led to swift economic impacts. Auto plants as far from the borders as Missouri closed for want of parts, as the adoption of just-in-time inventory management had made firms more productive but vulnerable to supply disruptions.

The border quickly reopened, but with much tighter and more time-consuming security procedures. In December, 2001, Canada's Foreign Minister, John Manley, proposed to the United States that the two countries work their way through a list he had assembled of recommendations for improving border security management. The Bush administration agreed, and the result was the U.S.-Canada Smart Border Declaration (setting out principles and a shared vision of an efficient and secure border) and Action Plan (a list of action items to be addressed by both governments, separately or jointly).

The Smart Border Action Plan called on the two governments to establish similar screening criteria, develop compatible data and communications systems, and share critical information on the movement of goods and people. It also committed them to establish audit-based partnerships with private firms, harmonize commercial inspection procedures, build joint border inspection facilities in remote areas, improve data exchange between customs agencies, develop joint inspection procedures for maritime shipping containers, coordinate physical and technological improvements to better manage traffic flow and inspections, and to explore the use of transponder technologies and electronic container seals. Additionally, the governments agreed to study and to develop emergency response plans to better protect critical infrastructure.

The Action Plan encouraged law enforcement agencies to expand the use of binational, interagency, federal-state/provincial and even



local Integrated Border Enforcement Teams, and Integrated Maritime Enforcement Teams (IBETs/IMETs) and to coordinate enforcement whenever the evidence trail crossed the shared border. More broadly, the Action Plan exhorted agencies and departments to engage in joint training and exercises both to improve readiness and effectiveness, and to boost citizen confidence that the United States and Canada were cooperating fully against terrorist groups in North America.

The U.S.-Canada Smart Border Action Plan worked remarkably well. That success can be attributed to key elements in its design. First, it was made up of very specifically-defined problems that required attention from federal policymakers in the United States and Canada. Second, the list of action items was based on the extensive stakeholder consultations that had followed the passage of the 1996 Illegal Immigration reform and Immigrant Responsibility Act by Congress. Stakeholders began defensively to react to the

The new U.S. border management bureaucracy alienated Canadian and Mexican officials used to working with predecessor agencies and systems.

entry-exit control provision of the Act, but proceeded to discuss the state of the border and its importance to regions and discrete groups of border users, from businesses to families. Third, the Smart Border Declaration, which accompanied the Action Plan, established a process for discussing and then enacting improvements at the U.S.-Canadian border that reflected a broad-based consensus agenda for the northern border.

However, over time, the weaknesses of the U.S.-Canada Smart Border Action Plan became clearer. Adopted in December 2001, the Action Plan reflected the post-September 11 climate and prioritized urgent concerns, leaving many important items off the list. The urgent concerns were those over which the consensus among stakeholders was the greatest, but many of the important issues were locally-specific, or related to particular cross-border activity. Once the original 30 points had been successfully addressed, the Action Plan was complete. The plan's design did not include a mechanism for renewal of its agenda through the addition of subsequent concerns. In this sense, it showed the fragility of the consensus about the northern border. By 2004, the particular concerns of cities and regions flared up in a jealous competition for infrastructure spending and policy attention from the new Department of Homeland Security in the United States

Following the 2001 attacks, Congress funded new border security and emergency preparedness capabilities and increased the number of Customs and Border Patrol officials posted to the land borders with Canada and Mexico.

Most importantly, it created the Department of Homeland Security (DHS). That had a dramatic effect at the land borders, reorganizing border personnel and reducing the autonomy of port directors that previously had exercised some flexibility in conjunction with their cross-border counterparts to accommodate commercial interest in moving goods rapidly. Small and medium sized businesses complained about the costs of programs designed for larger firms. Infrequent border crossers complained about the confusing array of new border security measures. Many complainers wrote letters to Congress and some opted to quit crossing the border at all.

The new U.S. border management bureaucracy alienated Canadian and Mexican officials used to working with predecessor agencies and systems. Whereas the U.S. Customs Service had sought a balance between security and facilitation of legitimate commerce at the border, the Bureau of Customs and Border Protection (CBP) in the new DHS was anchored by its security mission. In addition, the large number of new DHS officers at the land border lacked the experience and instincts of older officers who had worked at the land borders for years and often grew up in the border region where they spent their entire careers. Residents

of border communities complained that the new officials at the border were stricter and less indulgent of local habits and traditions regarding easy border crossing, but as these complaints fell on deaf ears in Washington the culture of the U.S. borderlands gradually adapted to the new, less open approach to borders.

In 2004, not only was the agenda of the U.S.-Canada Smart Border Action Plan largely complete, but Congress passed the Intelligence Reform and Terrorism Prevention Act (IRTPA) containing an important change to the U.S. management of its borders: the requirement that U.S. citizens and other travelers present a valid passport to enter the United States. This change was a key recommendation of the bipartisan National Commission on Terrorist Attacks Upon the United States, more commonly known as the 9/11 Commission. For more than a century, it was the practice of U.S. border officials to permit U.S. citizens to return to the United States from certain foreign countries including Canada on the basis of an oral declaration of citizenship, only occasionally requiring government-issued identification (with a photo) and a birth certificate or naturalization papers.

The IRTPA required a passport for entry to the United States even for American citizens. It also authorized a new Western Hemisphere Travel Initiative (WHTI) to promote the use of passports for border crossing by U.S. citizens, increase the capacity of the Department of State to issue and maintain passport services for citizens, and develop secure identification documents that might serve as an

acceptable alternative to the passport while providing greater convenience to citizens. Congress budgeted more than \$100 million for the WHTI.

The Canadian government expressed concern that the passport requirement would discourage casual travel by U.S. citizens to Canada, given the low number of U.S. passport holders in relation to the population. In addition, Canadians faced a new requirement as well: U.S. border inspectors had for years allowed Canadian citizens to enter the United States on the basis of an oral declaration of citizenship, affording them the same courtesy as U.S. citizens. IRTPA ended this practice, offending many Canadians who felt a sense of entitlement to easy access to the United States that was part of the borderland quality of life. Canadian border communities and governments reached out to neighbors in the United States to lobby Washington to delay or rescind the implementation of the passport

Calls for a reconsideration of the way in which the United States managed its border were based not on any resistance to national security concerns, but on a desire to see economic costs weighed rationally against security benefits.

requirement. Despite protests from Ottawa and Canadian provincial governments, as well as from many borderland state and local governments, the Bush administration proceeded to implement the passport requirement, which, after a congressionally-mandated delay, took effect for all U.S. land borders in June 2009.

The Security and Prosperity Partnership

In late 2004, Prime Minister Martin told President Bush that he shared the concern for border and domestic security made clear to everyone by al Qaeda's attack on the United States, but was concerned that border procedures were serving as a drag on the economies of North America. In January 2005 Bush traveled to Mexico where President Fox delivered a similar message. The result was the Security and Prosperity Partnership (SPP), a new model for coordinating the governance of North American integration and its attendant security risks.⁵

Under the SPP, the three federal governments established ten high-level working groups to address security cooperation and ten to address "prosperity" issues. The working groups are overseen by a ministerial committee that included the U.S. Secretary of Commerce, Secretary of Homeland Security, and Secretary of State (with the National Security Council serving as a coordinating and support group) that reported to the president—and Canada

and Mexico drew in cabinet level officials in a similar way

The SPP has several merits. It is more inclusive than the U.S.-Canada Smart Border Action Plan had been, bringing together economic and security issues in an explicit acknowledgement that the border was more than a line of defense. It has succeeded in fostering closer coordination between the federal governments of the United States, Canada and Mexico away from the border in the regulation and inspection of cross-border flows and domestic activities with cross-border implications—from the regulation of tomato growers and cattle ranchers, to the investigation of potential terrorist cells. It fostered greater contact and mutual awareness among officials in each country with their respective counterparts. The SPP guaranteed high-level attention to U.S.-Canadian bilateral issues, with annual leaders' summits and ongoing contact among officials, and showed sufficient flexibility in practice to allow the United

States to work with both Canada and Mexico, or with just one of its neighbors in a bilateral fashion. Finally, correcting for one of the major flaws in the Smart Border Action Plan, the SPP could be renewed and expanded.

However, the SPP had two serious weaknesses. First, by grouping the working groups into two categories—security and prosperity, with the former overseen in the United States by the DHS secretary

and the latter by the Commerce secretary—it reinforced the split between security and facilitation at the border that was already a concern for border users and border communities. Second, the SPP was a process that brought together only federal officials, leaving state, provincial, and local governments on the outside. Whereas the Smart Border Action Plans reflected the stakeholder discussions that had followed the 1996 immigration legislation in the United States, the SPP operated entirely from a federal perspective.

The end of the Bush administration was a time of mounting dissatisfaction with the SPP and the overall management of the U.S.-Canadian border. Though short of a crisis for the United States, problems at the northern border were expressed with increasing frequency by border stakeholders, setting the stage for a new administration to meet stakeholder calls for a new approach. In February 2008, the U.S. Chamber of Commerce and the Canadian Chamber of Commerce published a joint report, *Finding the Balance: Reducing Border Costs While Strengthening Security*, that highlighted the rising costs of compliance with border inspections, including the costs associated with delays at the border and a confusing array of programs that made numerous demands on businesses for information and threatened severe penalties for noncompliance or even mistakes.⁶ Inefficient border management was hurting

the competitiveness of firms in both countries, the report stressed.

In March 2008, the Brookings Institution expressed similar concerns in a report entitled *The Vital Connection: Reclaiming Great Lakes Economic Leadership in the Bi-National U.S.-Canadian Region* (http://www.brookings.edu/reports/2008/0324_greatlakes_canada_austin.aspx). Among other things, it noted that, "To realize the latent economic opportunities of the region, both the U.S. and Canada require more than the well-intentioned slow-walk of the existing Security and Prosperity Partnership dialogues of the past three years." In November, 2008, the Canadian International Council published *A New Bridge for Old Allies*, a report that offered several recommendations on how Canada and the United States might work together to redress problems at the border (<http://www.canadianinternationalcouncil.org/resourcece/issueareas/canadausbo>).

These calls for a reconsideration of the way in which the United States managed its border were based not on any resistance to national security concerns, but on a desire to see economic costs weighed rationally against security benefits. As 2008 unfolded, the global economy showed growing signs of weakness. For many businesses and border communities, the costs of complying with new and changing border policies were increasingly seen as a greater burden in difficult times

Unappreciated Economic Stakes

In several ways, the U.S.-Canada border is highly relevant for the current efforts to end the most severe recession in decades and expedite economic recovery. Canada is the United States' largest trading partner and accounted for more than 20 percent of U.S. exports in 2008. It is also the principal foreign supplier of energy to the United States, including oil from the oil sands of Alberta, millions of barrels of conventional crude oil, trillions of cubic feet of natural gas, and electricity from hydroelectric and nuclear power plants. Finally, Canadian plants play a vital role in the production of American automobiles. A vehicle produced by a U.S. automaker crosses the border seven times on average during its assembly, as the power train is attached to the body, seats are installed, and brakes, lights, and other elements are added. At this time of crisis in the auto industry, it is important to minimize the delays and cost involved in moving goods and people across the border.

Why, if the border is so important to the health of the U.S. economy, does reform of U.S. border policy prove to be so difficult?

A major reason is the lack of border-consciousness among the millions of Americans who depend in some way upon the flows of goods and people across the northern border. In all, 35 U.S. states count Canada as their largest export market.⁷ Beyond the regional gateways that make

The Effects of 9/11 on U.S.-Canada Trade

There is some debate about cross-border traffic flows and whether post-9/11 measures continue to affect them.

In a study commissioned by Brookings, Steven Globerman and Paul Storer of the Border Policy Research Institute at Western Washington University used statistical methods to estimate the impact of subsequent adjustments by firms and individuals on the trade and traffic that flows across the northern border. Their results suggest that there were lasting impacts and also significant differences between ports and regions in the patterns of post-9/11 trade flows. Measured border effects became smaller after the mid-2000s, an indication that the border crisis of the immediate post-9/11 period has receded. On the other hand, there is some evidence of persistent border effects in particular regions and of a broader resurgence of trade reductions in 2008. The size of border effects on trade and travel also suggests that any potential future trade effects could quickly become significant. The northern border therefore remains vulnerable, as do the large number of American jobs that rely on access to the Canadian market.

Globerman and Storer also found that for total U.S. exports to Canada, there are significant declines in trade volumes in at least the second half of 2001 and in 2002. These effects are smaller in 2003. For total U.S. imports from Canada, significant negative effects are found in the 4th quarter of 2001 and in 2002, 2003, 2004 and again in 2008. While overall trade effects may not be at their post-9/11 peak, there is enough of a lasting trade effect that reducing costly border regulations would help to combat the erosion of North American competitiveness caused by increased northern border costs.

Another important finding in the Globerman and Storer study is that impacts of border disruptions seem to be much more significant for goods entering the United States rather than for goods entering Canada, at least after the initial 2001 impacts. By making the United States more difficult to enter for terrorists, the post-2001 border changes made the United States hard to enter for goods and service providers, as well as visitors such as tourists and family members.

For the full report go to http://www.brookings.edu/reports/2009/0713_canada_sands.aspx

up the northern border, there are vital border corridors that connect businesses and individuals in the United States to suppliers, customers, collaborators and counterparts in Canada. Many commercial border crossers, from manufacturers to consumer goods firms, and retailers like Wall-Mart, have integrated their production into chains

of suppliers and distributors that crisscross the northern border. Canadian hydroelectricity helps to keep the lights on in New York City, and Canadian natural gas to help keep Boston homes warm in the winter. The availability of

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this energy keeps energy costs lower for consumers and businesses, and enhances local competitiveness. In addition, nearly all of the oil produced in the oil sands of Alberta is refined in the United States, creating jobs at refineries and downstream petrochemical industries such as plastics and asphalt paving.

New energy infrastructure is also an investment in the northern border. The Obama administration's proposal for a "smart grid" for electricity would have the benefit of expanding transmission capacity to allow Canadian firms to sell electricity to off-border communities, and would correspondingly allow the sale of "green" alternative energy generated in the United States to Canadian consumers. Enhancing the market for green energy will provide a vital boost to efforts to spark the creation of green energy sector jobs across America.

Canadians also contribute substantially to U.S. tourism, which is one of the leading sources of income for states with border gateways and along border corridors. Border crossing delays discourage day trips and longer vacations, particularly for families with small children. A 2005 article in *The Economist* noted a post-9/11 decline in passenger crossings at the Canada-U.S. border and attributed much of this decline to a perceived "unfriendly border". A 2007 study by Hodges analyzed trends in passenger crossings from the lower mainland of British Columbia through the Cascadian Gateway and found a significant decline after 9/11 even after controlling for other factors such as changing exchange rates and relative prices of products (including gasoline) that typically motivate cross-border shopping. These border effects were quite persistent and could counteract efforts by retailers in distressed U.S. border regions like Detroit to attract Canadian shoppers in order to replace declines in purchases by local residents.

At a time when the North American auto industry is in trouble, how many Americans are aware that automotive manufacturing is highly integrated across the northern border? The early U.S. automotive pioneers, Henry Ford and William Durant, established production and purchased component parts in Canada from the first days of the industry. Since vehicles produced in Canada could be exported tariff-

free across the British Empire, Canadian vehicle production helped Ford, General Motors, Chrysler and other carmakers to gain access to global markets. In 1965, the United States and Canada signed the Auto Pact, an agreement to integrate car and truck production and eliminate tariffs for selected producers. Today, the industry's specialized supply chains crisscross the border more than ever.

With a population largely unconscious of the connection between U.S. prosperity and the northern border, and with a political configuration that complicates the process of legislating reforms, it is easy to see why the default U.S. policy toward the northern border is neglect, leaving stakeholders along the border grumbling. Often, they turn to state and local governments for action.

But state and local governments have no control over border security and inspections; they remain the purview of the federal government. Yet, states are largely responsible for economic development, public health and safety, and emergency responses in ways that incline them to action—and often entrepreneurial policymaking—when their citizens grumble. A more orderly approach would acknowledge that there are different roles appropriate to the powers and capabilities of different levels of government.

Recognizing Northern Border Diversity: Addressing Immediate Concerns

As the Obama administration assumes responsibility for the management of the U.S.-Canadian border, it will encounter the legacy solutions already being implemented following decisions taken by the Bush administration. These include infrastructure investments where construction is planned and underway, as well as programs for which the phased implementation is ongoing. Too often, these more visible border policies become the focus of border debates to the exclusion of problems for which no solution has been identified or agreed.

Such *transitional* problems are still problems, but they require mitigation rather than new ideas. For example, traffic backups and delays at the busy Detroit-Windsor crossing between Michigan and Ontario will be remedied when a new bridge is complete. Studies and approvals for an additional Detroit-Windsor crossing are currently underway.

More serious are the *persisting* problems that are not in the process of being resolved, either because there is disagreement about whether they are in fact problems, or in some cases because there is no solution identified for them. The persisting problems at the border include proposals for country of origin labeling for certain agricultural products that may impose significant costs on businesses, who complain that these additional costs will force them to reduce production and eliminate jobs due to higher operating costs

and lower sales. Because many of the persisting problems related to the management of the U.S.-Canadian border are narrowly focused on particular sectors, businesses, regions, or communities, they are difficult for federal governments to address without stakeholder input. They are even more difficult for federal officials to identify before they become a source of conflict. When they do emerge Washington and Ottawa can respond to them defensively and, on occasion, too dismissively.

In order to avoid such responses, policymakers should consider the border not as a single line, but as a diverse set of variegated communities. Those who cross the border are not a homogeneous group, but have similar diversity. Problems at the border differ by region and among types of border users. Accordingly the existing infrastructure and programs established to manage the border vary, too. There is no simple solution to remedy concerns at the U.S. border with Canada, but understanding the diversity of the border is an important first step toward defining the present problems at the border more precisely: that is, connecting them to the particular region and/or user type that experiences the problem.

Regional Border Areas—defined by geography

The United States' border with Canada is 5,525 miles long, and runs from north to south between Alaska and the Yukon Territory and British Columbia as well as from west to east from the Pacific to the Atlantic. Much of the border is a land border, but many miles of the border run through four of the Great Lakes (Superior, Huron, Erie and Ontario); the Great Lakes divide the industrial heartland of the United States from that of Canada, and so it is in this region that bridges carry traffic to the busiest border crossings in the world.

The border between the United States and Canada is geographically diverse, crossing through forests, plains, mountains, rivers, and lakes. Just as important, some parts of this border trace the edges of major metropolitan areas. Seattle and Vancouver in the west, Detroit and Windsor, Toronto and Buffalo, and Ottawa and Montreal are border cities that rank among the largest metropolitan areas in North America, and nearby border crossings are the busiest by volume and value of trade and the number of travelers who cross daily. Yet rural stretches of the border are marked by numerous, smaller border crossings with limited daily volumes.

There are four primary gateways for traffic flows of goods and people across the U.S.-Canadian border. These border gateways are more than collections of border crossings: border gateways connect the border crossings with communities across the United States along border corridors made up of railroads, Interstate highways, airports, rivers and canals. Like rivers that connect a large watershed to the sea, the border corridors connect to border crossings to form border gateways that provide access to Canada. Each

of the four border gateways has distinctive characteristics and related problems.

The Cascadian Gateway

The Pacific Northwest is home to one of the major border corridors connecting western states such as California, Oregon and Washington to British Columbia. At its heart, this gateway links the metropolitan areas of Seattle and Vancouver with five major land border crossings: Blaine-Peace Arch and Blaine-Pacific Highway are the most highly trafficked, but there are smaller crossings at Point Roberts, Lyndon and Sumas as well. Interstate 5 connects to British Columbia's Highway 99 through the Blaine-Peace Arch crossing. The Blaine-Pacific Highway crossing, just one mile east, connects Washington State Route 543 to the Trans-Canada Highway and is the primary crossing for truck traffic. Together, these two crossings are the fourth busiest crossings for truck traffic and the third busiest for automobile traffic on the U.S.-Canada border.

In addition, the ports of Seattle and Vancouver are among the largest by volume on the West Coast of North America. In 2008, the Port of Seattle handled 1.7 million TEU (twenty-foot equivalent units; a standard forty-foot 40x8x8 feet container equals two TEUs each 20x8x8 feet).⁸ The Port of Vancouver handled 2.3 million TEU in 2007.⁹ Each hosts a joint U.S. and Canadian customs presence operating under the Container Security Initiative (CSI) which enables the inspection of containers and cargo by U.S. customs in Vancouver and by Canadian customs officials in Seattle-Tacoma in collaboration with host country officers. New port facilities being developed at Prince Rupert, BC will be rail linked to Chicago and Toronto, allowing for handling of 500,000 TEU per year, with the potential to increase to 2 million TEU. Goods arrive to and from these ports on land by way of truck and rail.

In the Gliberman and Storer analysis of U.S.-Canada trade patterns following September 11, 2001, the authors found that for imports through Blaine there was evidence of negative trade effects that persisted from 2002 through 2008 and grew over time. The effects were less evident for exports through Blaine, but the finding is significant because it indicates that the Cascadian Gateway has yet to recover from the shock of the September 11 attacks.

The Border Policy Research Institute at Western Washington University in Bellingham, Washington conducted a study of travel patterns in the I-5 corridor in 2007, concluding:

"On average, 91 percent of travel (combined weekend/weekday) is discretionary. Shopping, vacations, recreation and friend/family visits are the dominant trip purposes. About two-thirds of the trips begin and end within 30 miles of the border (...) At the Cascade gateway, the majority of travelers are Canadians."¹⁰

This profile is linked to the region's strong tourism economy, but also suggests that there are relatively few daily commuters using this crossing. Nonetheless, the Washington state government and the Pacific North West Economic Region (PNWER) took the lead in developing enhanced driver's licenses (EDL) that met Department of Homeland Security and Department of State standards for secure travel documents that can now serve as an alternative to passports for border crossers.¹¹

Already required to improve the security of state issued identification such as driver's licenses under the U.S. REAL ID Act of 2005, the State of Washington proposed to add biometric identification and to encode citizenship information confirmed by the State Department. Specially-trained Washington state Department of Motor Vehicles officials review, verify and electronically scan documents establishing identity and citizenship (such as a birth certificate), and if the documents are valid, the Washington State DMV will issue a license with a radio frequency identification (RFID) chip provided by the U.S. State department embedded, which is the enhancement. The RFID chip in the EDL contains no personal information, but points to the individual's passport record so that U.S. inspectors can access it in seconds at the border and confirm identity for faster clearance. PNWER lobbied for approval of the EDL pilot program by Washington, and is encouraging its members to issue EDLs now that the pilot project has been approved for wider use by U.S. federal officials. PNWER is an association of states and provinces that includes Alaska, Alberta, British Columbia, Idaho, Montana, Oregon, Saskatchewan, Washington, and the Yukon Territory.

Jurisdictions across the border have sought to offer EDL options to citizens, and others are considering doing so. New York state was the first U.S. jurisdiction to offer EDLs after the Washington state pilot program won approval from DHS officials. In Canada, the federal government set up a database and infrastructure to enable provinces to issue EDLs as well using RFID chips that match the U.S. standard. U.S. Customs and Border Protection inspectors can access the Canadian database for the record information (name, address, height, weight, eye color) photos and other biometric data to verify the identity of individuals crossing with an EDL issued by a Canadian province. At present, Canadian Customs and Border Services Agency inspectors at most crossings lack the equipment to access information from the RFID chips in EDLs issued by either country, due to budgetary limitations.

Smuggling is a significant concern in the Cascadian gateway, particularly the smuggling of drugs and weapons, but also including human trafficking.¹² In particular, high-potency marijuana known as "BC Bud" is grown in the rugged interior of British Columbia and sent to markets across the United States, but particularly along the West Coast to Washington, Oregon, and California. Asian gangs have

moved heroin and cocaine through the Port of Vancouver destined for the United States as well as using smuggling routes to engage in human trafficking. The levels of violence as recorded in Vancouver crime statistics have been rising, and much of this is associated with or a collateral consequence of drug trafficking and organized crime. Director of the Office of National Drug Control Policy and former Seattle Police Chief Gil Kerlikowske brings valuable experience addressing these problems to the national scene.

Transitional Concerns:

- The General Services Administration has begun work on new facilities at the Peace Arch Border Crossing in Blaine, Washington to replace existing buildings and inspection booths built in 1976. The expanded facility is scheduled to be completed by November 2010. Local governments are concerned about the impact of construction delays on travelers during the 2010 Winter Olympics (February), and the 2010 Paralympics (March) in Vancouver.
- Although confusion over required traveler documents has been addressed in part with the implementation of the U.S. passport requirement and the development of the Enhanced Driver License, these programs are still new and have limited users.

Persisting Problems:

- The travel and tourist sector has suffered since 2001 with fewer discretionary trips in both directions. Border delays remain a concern for travelers already discouraged by fluctuations in the U.S. dollar-Canadian dollar exchange rate.
- Smuggling of drugs (particularly the BC Bud marijuana variety), weapons, and money, and human trafficking continues in the area although pressure from U.S. and Canadian law enforcement has pushed smuggling into more remote rural areas farther east.

2. The Great Lakes Gateway

The busiest section of the U.S.-Canadian border is the Great Lakes gateway encompassing the major crossings of Detroit and Port Huron in Michigan and the Buffalo and Niagara Peninsula crossings in New York, all connecting the U.S. industrial and agricultural heartland with Ontario, Canada's economic heart and home to 40 percent of the Canadian population and nearly half of Canadian GDP. At the eastern edge of the Great Lakes gateway, the crossing at Champlain, New York is the main connection between Montreal and New York City and the entire U.S. Atlantic seaboard. Unlike other sections of the border, geography limits the number of possible crossing points: the Great Lakes and rivers connecting them comprise most of the border in this region. As a result, traffic must cross over bridges and through tunnels, and is relatively concentrated. Of the major crossings in this gateway, only Champlain is a land crossing with room to expand inspection plaza areas to accommodate



Ambassador Bridge

growth in traffic at a low relative cost. In all, 10 bridges and the Detroit- Windsor Tunnel carry motor vehicle traffic from Michigan and New York to Canada.

The majority of U.S.-Canadian trade passes through the Great Lakes gateway, based on value. This is mainly due to the automotive industry. Detroit's automotive pioneers established partnerships and subsidiaries in Canada by 1910. The U.S. government signed trade agreements beginning in 1965 to remove barriers and allow the automakers to integrate car production across the continent. Today, Canada is responsible for nearly 20 percent of all North American vehicle production, and Canadian suppliers are closely linked to U.S. automotive supply chains. In recent decades, motor vehicles and parts have been the largest single component of bilateral trade, in what is famously the largest bilateral trade relationship in world history: generating more than \$1.5 billion in cross-border flows every day.

When the U.S.-Canada border was closed briefly on September 11, 2001, auto plants across the Midwest and as far south as Missouri were forced to shut down for lack of component parts. This is a consequence of just-in-time, or JIT, inventory management, a practice that coordinates the delivery of parts within hours or even minutes of when they will be needed so that companies do not need to maintain warehouses full of parts waiting for orders. In order to coordinate the logistics among suppliers and assemblers, manufacturers organize "supply chains" linking factories in a synchronized production process that is more efficient and therefore more competitive. JIT logistics are a major contributor to the growth in productivity in the auto industry and in other areas of the economy, from food processing to consumer electronics. A study by the Conference Board of Canada in 2007 identified the seven sectors most vulnerable to border disruptions of supply chains: (1) motor vehicle manufacturing; (2) basic chemical manufacturing; (3) computer and peripheral equipment manufacturing; (4) resin, synthetic rubber, and artificial and synthetic fiber

manufacturing; (5) rubber product manufacturing; (6) seafood product preparation and packaging; and (7) electrical equipment and component manufacturing.¹³

Delays at the U.S.-Canadian border, particularly unpredictable delays, undermine the efficiency of JIT logistics. Instead of sitting in warehouses, necessary components sit in trucks that are waiting to clear customs. Unexpected delays force assembly lines to slow down and in some cases stop when the parts they need have not arrived. Since such delays create a disincentive to purchase critical parts from suppliers on the other side of the border, the failure to address border delays can encourage companies to seek more expensive supplies in their own market. This in turn raises the cost of the product for the consumer, which can translate into lost sales and ultimately, lost jobs. As a result, the Blue Water Bridge and the Ambassador Bridge have among the highest rates of commercial traffic entered into the Free And Secure Trade (FAST) trusted traveler program at some 44 percent of all trucks crossing the border at these locations.¹⁴

In their analysis of U.S.-Canada trade data since September 11, 2001, Globerman and Storer found that in the Great Lakes Gateway, there is some evidence of negative effects on exports to Canada in 2001 and 2002 (and to some extent 2003) but the effects are more pronounced for exports by truck than for total exports. For imports from Canada, Globerman and Storer identified significant trade shortfalls that began to appear in 2002 and 2003.

Just as important for the Great Lakes Gateway, Globerman and Storer found evidence of shifts in the trade shares of the port groupings. For U.S. exports to Canada, the share of the Great Lakes Gateway rises through 1998, hits a plateau around 2000, and then begins to decline. For imports from Canada, the share of the Great Lakes Gateway is fairly flat through 2000 and then begins to decline at an accelerating pace. By contrast, the import share of Blaine rises through 1999 and falls thereafter.

The Globerman and Storer analysis also found trade disruption effects that seemed to be of shorter duration in the Great Lakes Gateway than in the Blaine/Cascadian Gateway. The authors suggest that the difference could be due to the greater utilization of programs such as FAST in the Great Lakes Gateway.

In recent years, the priority in the Great Lakes gateway has been to expand or improve infrastructure. A new railway tunnel, the St. Clair Tunnel, was expanded south of Port Huron to accommodate larger rail cars in 1995. A second, twin span of the three-lane Blue Water Bridge between Port Huron, Michigan and Sarnia, Ontario was opened in 1997.¹⁵ Together these investments helped to make Port Huron one of the busiest crossings on the Canadian border as other crossing points were in the process of building new infrastructure to keep up with the space requirements for new

In recent years, the priority in the Great Lakes gateway has been to expand or improve infrastructure.

security measures instituted by U.S. and Canadian customs authorities and with demands caused by traffic volumes.

At Detroit, there is a bridge crossing, a vehicle tunnel, and a rail tunnel. The Detroit-Windsor Tunnel was opened in 1930 and is nearly one mile long, passing underneath the Detroit River. Commuter buses, tour buses, cars and trucks pass through the tunnel on a regular basis, but traffic is easily congested because the entry and exit from the tunnel flows to downtown streets in both cities, and the space available to customs is limited by nearby office buildings. As a result, the tunnel is generally avoided by commercial traffic.

The rail tunnel at Detroit-Windsor opened in 1910, and continues to move freight, although traffic through this tunnel diminished after the St. Clair Rail Tunnel opened in 1995. The Detroit River Tunnel Partnership proposed turning the former rail tunnel into a high capacity rail tunnel as well as a commercial truck crossing with up to six lanes of roadbed, but the plan failed to win approval from local authorities.¹⁶

The Ambassador Bridge has long been the busiest crossing on the U.S.-Canadian border. Privately-owned and operated by the Detroit International Bridge Company (DIBC), the Ambassador Bridge carries more trade between the United States and Canada each year than flows between the United States and all of Europe and Japan combined. The Michigan Department of Transportation has undertaken a \$230 million expansion of the Ambassador Bridge customs plaza to improve traffic flow and enhance access to Interstate 75 and Interstate 96, as well as to ease traffic problems affecting adjacent city neighborhoods. The DIBC has proposed a privately financed \$1 billion second span for the Ambassador Bridge that is pending regulatory approvals.¹⁷

At the same time, a new crossing between Detroit and Windsor, known as the Detroit River International Crossing (DRIC) is being planned, and received U.S. Department of Transportation approval in January 2009.¹⁸ The DRIC would cost \$1.5 billion, and construction could begin as early as 2010; the earliest that this second bridge would be open to traffic is 2013. This second crossing would connect Interstate 75 and Ontario's Highway 401 while bypassing Huron Church Road, which passes through the City of Windsor and is subject to congestion and delays. It would require the construction of additional customs inspection space in both countries, additional customs personnel, and a new three-mile long highway to connect the bridge to Highway 401 via the E.C. Row Expressway on the Canadian side. Planning for this connector began in 2006, and a route and design have been approved. However, the DRIC is expected to be completed later than the DIBC barring additional delays to either project, and concern over the auto industry and the potential for lower traffic volumes due to reduced automotive industry shipments casts doubt on the need to proceed with both the DIBC and DRIC.

Planning and permitting for improvements at the Detroit-Windsor crossing involve the two federal governments, the governments of Michigan and Ontario, the counties of Wayne (Michigan) and Essex (Ontario), the cities of Detroit and Windsor, and neighborhood groups on both sides. Despite growth in traffic from 1989 onward, governments willing to invest in additional crossing infrastructure after the September 11, 2001 terrorist attacks, and an organized business and labor constituency lead by the auto industry supporting additional infrastructure, the delays have been considerable and frustrating to local residents.

A similar frustration has been building in Buffalo, New York. There are four bridges that cross the Niagara River between the United States and Canada. Three are at the north end of the river, nearer to Lake Ontario and Niagara Falls, and governed by the binational public Niagara Falls Bridge Commission: the Lewiston-Queenston Bridge, the Whirlpool Bridge, and the Rainbow Bridge. To the south, the Peace Bridge connects Buffalo with Fort Erie, Ontario; it has its own binational public bridge commission. Together, these bridges have fourteen lanes open for vehicle traffic and connect to major highways, but only the Peace Bridge and the Lewiston-Queenston Bridge are open to truck traffic.

Given the proximity of metropolitan Toronto, Canada's largest city, along with the Niagara Falls and other attractions, the Niagara River border crossings carry the heaviest passenger vehicle volume on the U.S.-Canadian border, much of it related to tourism and showing heaviest volumes during summer.

The Peace Bridge is the second busiest crossing on the U.S.-Canadian border despite having just three lanes



Peace Tower

(one is bidirectional, switching during the day). Room to expand the customs plaza is greater on the Canadian side, while in Buffalo the U.S. Customs plaza is constrained by a local neighborhood and a historic park. The Peace Bridge Authority began planning a new bridge span to increase capacity in 1993, but ran into opposition to building a twin to the current bridge (as was done in Port Huron) from the Buffalo mayor and City Council, the Erie County chief executive and County Board, and both the two U.S. senators for New York, as well as the state attorney general. Opponents wanted the PBA to build a “signature bridge” that would become an architectural landmark for the area as well as carry additional traffic.

In 2007, the private owner of the Ambassador Bridge proposed to build a privately financed bridge across the Niagara River 1.5 miles north of the Peace Bridge. More recently, the architecturally-significant design of a second span alongside the Peace Bridge was criticized for the effect that its two tallest piers might have on migratory birds in the area. As of early 2009, work has not advanced beyond the planning and permitting stages for an additional Niagara River crossing.

Another issue in the Great Lakes gateway has been customs pre-clearance (allowing one country to pre-clear goods or people for entry) or reverse inspections (where both countries pre-clear goods and people at the same point of entry). The security benefit of pre-clearance and reverse inspection is that they would allow customs officials to inspect cargo and passenger vehicles before they access bridges. In practice, this would create sovereignty concerns, since U.S. customs inspections would occur on the Canadian side of the border, and Canadian customs inspections

would take place on the U.S. side of the border. Pressure for reverse inspections is greatest in locations where the space for inspections is constrained on one side of the border or the other (or both). However, due to national sovereignty requirements, only the U.S. and Canadian federal governments can consent to reverse inspections.

Pre-clearance and reverse inspections are currently in use at selected air and sea ports, but not yet at the land border. Under the Container Security Initiative, where Canadian Customs inspectors work alongside U.S. Customs and Border Protection officers at seaports in Seattle, Vancouver, Montreal, Halifax, and New York-New Jersey. Similarly, arrangements have been made to allow U.S. Customs and Border Protection officers to operate at most major Canadian airports, screening passengers flying to the United States. A SPP working group has been working on pre-clearance and reverse inspection issues for the U.S.-Canadian land border but without success, and a pilot project to test the concept at the Peace Bridge announced by the two federal governments in 2004 was cancelled in 2007 amid mutual recriminations by U.S. and Canadian officials.

The Public Border Operators Association, representing nine publicly owned border crossings between Ontario and the states of Michigan and New York, reported in February 2009 that truck traffic between Ontario and Michigan and Ontario and New York fell by nine percent to 7.3 million truck crossings in 2008 from just more than 8 million the year before. The slowdown in the auto industry has contributed to a fifteen percent drop in the number of trucks crossing the Ambassador Bridge from 2007 to 2008, with an eighteen percent drop in truck traffic across the Ambassador Bridge in December 2008 compared with the previous December. Declining traffic figures, if sustained into 2009, undermine the case for the investment of billions of dollars in new border infrastructure after years of contentious debate and planning has already taken place.

Transitional Concerns:

- Construction of an expanded U.S. customs plaza at the Ambassador Bridge has rerouted traffic and caused some delays, and DIBC plans for an Ambassador Bridge expansion may cause further disruption.
- Work on a second crossing at Detroit could begin in 2010 and continue until 2013 under current plans with traffic impact unknown at this time.

Persistent Problems:

- Coordination among multiple governments and approval processes and competition among private and public infrastructure owners force long lead times for planning and permitting and create uncertainty about border crossing status and future capacity. Despite the post 2001 pressure for action, progress in this region on new border infrastructure has been glacial
- To date there has been no agreement to allow reverse inspections at northern land border crossings.



The Rural Gateways

The vast majority of the land border between the United States and Canada is outside the Cascadian and Great Lakes gateways and home to most of the border crossing points between the two countries. This includes the Alaska-Yukon Territory border (four crossings), the border between eastern Washington and British Columbia (eight crossings), Idaho's border with British Columbia (two crossings), Montana's border with British Columbia (three crossings), Montana's border with Alberta (six crossings), Montana's border with Saskatchewan (seven crossings), North Dakota's border with Saskatchewan (six crossings), North Dakota's border with Manitoba (thirteen crossings), Minnesota's border with Manitoba (three crossings), Minnesota's border with Ontario (three crossings), the Sault Ste. Marie crossing between northern Michigan and Ontario, ten crossings between upstate New York, Ontario, and Quebec, Vermont's border with Quebec (fourteen crossings), New Hampshire's single crossing to Quebec, and Maine's borders with Quebec (six crossings) and New Brunswick (sixteen crossings). Along the Great Lakes, there are also lake ports with customs facilities that serve as additional points of entry to the United States.

These crossings can be grouped together as the "Rural gateways" connecting the United States and Canada, more because they connect rural regions than because they lack development. In fact, of the ten busiest crossings on the northern border (each of which processed more than \$1 billion US in 2008 imports) four are located in the Rural gateways. As a result, the Rural border is like the northern border more generally: a variegated and diverse frontier that includes areas of regular, heavy traffic;

crossings that are seasonally or periodically busy; and long stretches between official crossing points that must be monitored since there an individual or an animal could cross over the border without notice. Many Rural border crossings are quite small, located along traditional routes for trade in agricultural and resource products that date back more than a century. As such, they have a standing that makes them difficult to alter, even when it becomes inefficient to maintain them from the U.S. federal government perspective.

Limited traffic has meant limited hours for border crossings in rural areas, a source of complaint in certain localities where residents see the hours of operation at local border crossings shaping the traffic patterns, rather than responding to them. Most of the border crossings in the Rural gateways are open to inspect commercial shipments during limited hours. Most common are locations where commercial inspections can take place 24 hours a day on five days of the week (but not on weekends). With the exception of Canada's Yukon Territory, every province with a U.S. border has at least one crossing point that offers commercial inspections 24 hour a day all seven days of the week, permitting an access point for time sensitive shipments. This is a compromise necessitated by limited budgetary resources, but evidence that the Department of Homeland Security is working to offer commercial facilitation in less-trafficked parts of the border.

One particular type of commercial inspection is made at ports of entry, but not by CBP officers: the inspection of plants, animals and related products, which is conducted by the Animal and Plant Health Inspection Service (APHIS)

of the U.S. Department of Agriculture (although under DHS authority when operating at the border). Under cost recovery provisions in the 1990 Food, Agriculture Conservation and Trade Act, APHIS charges a controversial user fee for each inspection of shipments at the border and for the inspection and clearance of aircraft and ships. Since 2007, APHIS has begun collecting a more controversial fee of \$5.00 per passenger on all flights into the United States, a fee that is on top of fees that the airlines pay for inspection of the aircraft. This helps to fund more APHIS inspectors, but forces many people flying to and from the United States to subsidize inspections at the border. It is also a hidden fee, embedded in the price of most airline tickets, raising fears that the fee could be increased over time to more onerous levels and discourage tourism. The APHIS fee is also levied on truckers carrying auto or computer parts across the land border, though not collected from passengers who cross the land border by car.

Another concern in the Rural gateway is the introduction on March 16, 2009 of new Country Of Origin Labeling (COOL) requirements by the U.S. Department of Agriculture, which had been debated for more than a year in Washington. The new regulation requires labeling for muscle cuts and ground beef, pork, lamb, goat, and chicken; wild and farm-raised fish and shellfish; fresh and frozen fruits and vegetables; peanuts, pecans, macadamia nuts, and ginseng sold by designated retailers. These products must be labeled for retail sale, but with additional recordkeeping requirements for retailers and suppliers. Both products of solely U.S. origin and foreign imported products to be sold in the United States are covered under the rule.

The COOL requirement is a concern in certain food processing sectors that are highly-integrated between Canada and the United States, such as livestock (especially beef and pork) where animals may be born of parents on different sides of the border, fed or grazed on both sides of the border at different times, and then slaughtered and packed on another side of the border than the one where they lived out their lives. Keeping track of these details under COOL recordkeeping rules (which are subject to audit) places an additional burden on farmers and food processors, and is a drag on the competitiveness of businesses that operate cross-border supply chains relative to those who do not. Over time, this could discourage imports from Canada, and is therefore treated by Canada as a protectionist measure.

The distances between border crossings in the Rural gateways result in a greater role for the U.S. Border Patrol and U.S. Coast Guard, both part of the Department of Homeland Security. To improve the capacity to monitor and interdict unauthorized border crossings, DHS launched the Secure Border Initiative (SBI) in 2005 and SBInet in 2006. The Secure Border Initiative devoted additional resources and personnel to the Bureau of Immigration and Customs Enforcement (ICE) to increase the enforcement

of deportation orders and workplace inspections. SBInet is a companion initiative operated by Customs and Border Protection that uses advanced technology to monitor the border, assess and classify threats, and coordinate responses among nearby law enforcement personnel. In practice, it has involved the use of cameras, remote sensors, and unmanned aerial vehicles (UAVs) to monitor remote border areas and advanced systems to integrate the information gathered by these means to determine whether the border crosser is a person or a moose, for example.

Controversy surrounding SBI and SBInet at the southern border has developed out of concern over the treatment of Mexican nationals. In the remote areas of the northern border, concern over SBInet has been more muted, but landowners and local residents have expressed concerns that the U.S. federal government is using cameras and UAVs to spy on them, invading their privacy. Yet for the most part the SBInet technologies are unobtrusive, and DHS outreach to communities and landowners in the borderlands has helped allay if not eliminate concerns. However the SBInet is viewed in the U.S.-Mexican border region, in the longer and more remote stretches of the U.S.-Canadian border it represents a balanced compromise between resources and the task of guarding the border.

Transitional Concerns:

- Privacy concerns over SBInet and the use of advanced technology to monitor the border may undermine local cooperation with law enforcement
- Staff shortages affect hours of operation at rural crossings, especially during seasonal or periodic increases in traffic
- CBP (at ports of entry) and Border Patrol (between ports of entry) lack communication and coordination in some areas

Persistent Problems:

- COOL labeling requirements reduce the competitiveness of some agricultural and livestock producers operating in both Canada and the United States
- APHIS fees shift the cost of inspection from users to others crossing the border, creating an impression of unfairness and the possibility for hidden rate increases that add to the cost of crossing the border
- Monitoring of remote areas between the borders

The Perimeter Gateways

The land border between the United States and Canada is made more secure by inspections and law enforcement activity that occurs away from the border. From aircraft that land in Canada to ships that unload goods bound for U.S. destinations at ports in Canada, the United States and Canada work together to protect the perimeter of the continent as well as the border between the two countries.

One of the first security measures adopted at the Perimeter was the Container Security Initiative (CSI) under

which U.S. Customs officials are located at the Canadian ports of Halifax, Montreal, and Vancouver and work with Canadian counterparts to inspect shipping containers bound for U.S. destinations. CSI is a reciprocal effort, allowing Canadian Customs inspectors to operate at major U.S. ports (Seattle-Tacoma and New York-New Jersey) to inspect containers unloaded there and bound for Canada. In addition, U.S. and Canadian customs teams work together in overseas ports such as Rotterdam to inspect cargo containers before they leave Europe bound for North America.

Under CSI, containers are unsealed and inspected by the local customs agents, but decisions about which containers to inspect are made jointly and information is shared between them. CSI has helped to stop smuggling of drugs and other contraband, as well as human trafficking.

Individuals seeking to enter the United States by air pre-clear U.S. Customs and Border Protection before heading to their airplanes at nine of the largest Canadian airports. U.S. airport preclearance allows CBP to determine the admissibility of an individual prior to their entering U.S. airspace. Canadian airports were among the first to host U.S. Customs preclearance, and have invested millions of dollars to upgrade airport facilities to secure the U.S. departures gates and provide space for CBP to operate. In addition to Canada, only Aruba, the Bahamas, Bermuda and Ireland have U.S. passenger pre-clearance agreements, which provide airlines with the major benefit of being able to fly directly to any domestic U.S. airport rather than being limited to those with a U.S. Customs presence for screening inbound international travelers.

U.S. concerns over Canadian immigration policies were one reason for the United States to seek a presence at Canadian airports to pre-screen U.S.-bound travelers. A Canadian Supreme Court ruling in 1986 (the Singh ruling) made it more difficult for Canadian authorities to deport non-citizens who had entered Canada seeking to remain as refugees or prospective immigrants. In 2002, the Canadian Parliament overhauled its immigration legislation to require potential immigrants in most cases to apply from their home country or a safe third country prior to coming to Canada—a practice similar to that of the United States. The 2002 Canadian immigration reform also improved the background checks on potential immigrants to Canada by requiring officials to consider intelligence reports from friendly foreign countries including the United States where applicable and appropriate.

Despite these reforms, an unknown number of individuals who had previously entered Canada were a source of concern for U.S. officials. Although none of the individuals who carried out the September 11, 2001 terrorist attacks on the United States came from or through Canada, there were several previous terrorism cases with Canadian connections. The ringleader behind the 1993 World Trade Center bombing, Omar Abdel Rahman, visited Toronto and

Montreal regularly to raise funds and recruit supporters; Palestinian-born Ghismail Ibrahim Abu Mezer and Lafi Khalil entered the United States from Canada on several occasions before their arrest in a New York City subway bomb plot in 1997; Algerian-born Ahmed Ressay was a Montreal resident who was apprehended in 1999 attempting to enter the United States from British Columbia with plans to attack the Los Angeles International Airport; and several members of the Ahmed Saied Khadr family of Ottawa were killed fighting Western troops in Afghanistan, with son Omar Khadr imprisoned at Guantanamo.

Canada has a larger list of countries whose citizens do not require a visa to visit or transit through Canada than the United States post-2001, and the two countries require different information from visa applicants, visitors without visas (those from countries with a visa waiver), and refugee and asylum applicants. The United States requires mandatory detention for refugee and asylum applicants until their status has been determined; Canada does not. Legal rulings on privacy rights in each country have limited the sharing of information with officials in the other. These differences have become the focus of concern in the United States in particular, where officials rely on information and intelligence from friendly allies like Canada to make risk assessments that underpin a host of border security measures.

This points to the reason why the Perimeter gateway is in some ways the most critical for the United States and its relationship with Canada: stopping individuals and attacks as far from intended targets as possible requires active international cooperation, which Canada has been willing to provide through security cooperation as well as domestic reforms.

The U.S. and Canadian militaries also cooperate in defending the Perimeter approaches to North America. Dating back to the Cold War, NORAD is a joint U.S.-Canada air defense agreement under which the U.S. and Canadian air forces monitor air threats and coordinate the response by U.S. or Canadian fighter jets, whichever are nearest. The NORAD Agreement was renewed in 2006, and the two countries agreed to explore the coordination of maritime defense of the approaches to North America; in practice, however, the Canadian navy and coast guard already works closely with their U.S. counterparts.

The principal responsibility for the U.S. effort to defend the approaches to North America rests with United States Northern Command (US NORTHCOM), with an area of responsibility that includes air, land and sea approaches and encompasses the continental United States, Alaska, Canada, Mexico and the surrounding water out to approximately 500 nautical miles. It also includes the Gulf of Mexico and the Straits of Florida. The defense of Hawaii and U.S. territories and possessions in the Pacific is the responsibility of U.S. Pacific Command. The defense of Puerto Rico and the U.S. Virgin Islands is the responsibility of U.S. Southern

Command. In emergency response, critical infrastructure protection, and other homeland security missions, US NORTHCOM operates as a ‘second responder’ providing logistics and other support to federal, state and local law enforcement, U.S. National Guard, the U.S. Coast Guard and other first responders.

The commander of US NORTHCOM is responsible for theater security cooperation with the militaries of Canada and Mexico. This involves a relationship with Canada Command, the Canadian military command for defense of Canadian territory. In two areas, political concerns have emerged over the role of the U.S. military in defending Canadian territory. The first is the longstanding Canadian refusal to participate in missile defenses, which has not deterred U.S. development of missile defense systems but has greatly reduced the role and importance of NORAD. The second is the security of the Arctic, where there remain significant unresolved border disputes between Canada and its Arctic neighbors including the United States.

At the same time, the United States has far greater capabilities for operations in the Arctic. The United States does so with sensitivity to Canadian sovereignty concerns but with the ultimate goal of safeguarding U.S. interests in this area. The commercial aspect of these two areas of political sensitivity over military cooperation at the Perimeter of North America is two-fold. First, the United States protects critical satellites in orbit over North America, and since many satellites serve customers and purposes in both countries, U.S. protection efforts extend to Canadian space interests as well. Second, the growing development of arctic oil and natural gas fields, though hampered somewhat by boundary disputes, relies on U.S. security and rule of law that is underpinned by the U.S. military presence. President Bush issued a presidential directive on January 9, 2009 to clarify the responsibility and role that the United States would take in the arctic that stressed the importance of enforcing environmental standards as arctic energy resources are developed as well as protecting commercial shipping.

Transitional Concerns:

- U.S. concerns about Canadian immigration policy have been addressed, and cooperation is good with regard to individuals who may have entered Canada under past procedures. Canadian citizen Omar Khadr is being held by the United States at the Guantanamo Bay prison facility pending the outcome of a trial by a U.S. military commission. The Canadian government has been unwilling to seek Khadr’s return until the conclusion of his trial and sentencing.
- Military-to-military coordination is shifting from the jointness of the NORAD model to the parallel structures of US NORTHCOM and Canada Command, prompting adjustments to communications and information sharing

Persisting Problems:

- Unresolved boundary disputes in the Arctic, and the

U.S. assertion of protection of the Arctic environment and shipping are a source of tension with Canada.

- Canada’s unwillingness to participate in missile defense of the continent has undermined the value of the NORAD alliance, which could be eliminated in future to save costs.

These four geographic subdivisions of the U.S.-Canadian border are important and useful to keep in mind. Regional differences make the border harder to govern, because solutions for one region are less important for another area. Cooperation between the United States and Canada is good in all of the major border gateways, but notably it is perhaps best at the Perimeter gateway where it is exclusively a federal-to-federal challenge. In the Cascadian, Great Lakes, and Rural gateways, borderlands residents raise concerns and subnational jurisdictions assert local jurisdiction over infrastructure and permitting—sometimes for the better, as with the EDL pilot project in Washington state, but sometimes for the worse, as local disagreements have delayed new bridge construction between Michigan, Ontario, and New York.

U.S. policymakers have tended to view the border as a single entity, and to the extent that border diversity has been acknowledged in policy terms, it has been in the design of policies to address concerns of specific border user groups or types. Five broad categories of border crossers provide a second look at the functional diversity of the border.

Functional Borders—defined by user types

The five main types of border crossers are a mix of goods and people that can be classified as commercial, energy, commuters, amateur, and illicit. Each is served by particular DHS programs, and some experience more frustration with the current state of the U.S.-Canadian border than others.

The organization of the Department of Homeland Security provides a clue as to why the functional approach to border policies has predominated since 2001: A large organization with a broad mission, the subdivisions within DHS reflect functional responsibilities, and for the most part, a global scope of responsibility. For the initial challenge of upgrading the security of the United States in the wake of the September 11, 2001 terrorist attacks, this structure was prudent and allowed the extant parts of the U.S. government that had responsibility for U.S. domestic security prior to 2001 to come together as they had been previously constituted: along functional lines. This model has worked well for DHS, despite some problems. This paper argues that as U.S. border policies mature, increased recognition of regional diversity at the border will help to address problems in a more targeted fashion, but at the same time the functional approach to border users will remain valuable to U.S. security and to an understanding of the operation of the northern border with Canada.

The Commercial Border

For decades, Canada has been the number one U.S. trading partner, and our largest export market. In 2008, more than \$1.5 billion in goods crossed the border every 24 hours, more than \$1 million dollars worth per minute. In the 18th and 19th centuries, natural resources and primary products were shipped from Canada to the United States, and U.S. manufacturers sent their goods north to compete for market share with British brands. The 20th century saw a dramatic shift toward integrated manufacturing of automobiles, aircraft and other sophisticated products that were made up of subsystems and components that were themselves complex. As an example, consider the way a radio can be put into a car or truck, a subsidiary product whose design and sale is dependent on the manufacture of the vehicle into which it is installed. These interdependent products promote coordinated design and manufacturing between separate firms that specialize in different parts of the production process, but also competition among subsidiary suppliers for contracts from firms making more complex products. Americans and Canadians, sharing for the most part a common language and with similar business cultures,

In 2008, more than \$1.5 billion in goods crossed the border every 24 hours, more than \$1 million dollars worth per minute.

took easily to the myriad deals and negotiations that were necessary across the economies of both countries to initiate and nurture closely coordinated manufacturing sectors. In the years following World War II, this specialization and integration was a major source of U.S. and Canadian competitive advantage over Europe and Asia.

The growth of integrated design and manufacturing, particularly in the auto industry, placed tremendous pressure on the border. The governments of the United States and Canada responded mainly by getting out of the way: allowing private interests to develop needed infrastructure, cutting tariffs, and seeking to streamline regulation and inspection processes. By the late 20th century, new sectors followed the same model of close production integration between U.S. and Canadian firms: cultural industries making films and television programs sought cross-border partners, software firms in both countries wrote applications for equipment producers such as Dell and Blackberry, Internet pioneers exchanged ideas and products as though the border was immaterial—as it often was for their purposes.

Technical services grew to form a major component of cross-border trade. Architects and engineers, medical doctors and academics all followed the well-established path

of specialization and cross-border collaborations between Americans and Canadians. As services grew to become a larger contributor to U.S. and Canadian economic growth, consulting and trade in expertise led to further growth in bilateral trade between the two countries.

The U.S. Customs–Trade Partnership Against Terrorism (C-TPAT) was one of the first programs put in place after the September 2001 terrorist attacks, launched in November 2001 with seven initial corporate participants. From the beginning, it was a voluntary program through which firms would seek to protect their supply chain relationships from tampering or infiltration by terrorist groups. This included conducting background checks on truck drivers and loading dock operators, fencing plants and loading dock areas, sealing shipments in tamper-proof containers such as sealed trucks, and providing CBP with detailed information on shipment contents and destinations electronically, reducing uncertainty when trucks reached a border crossing. Company efforts were transparent to U.S. Customs, which acknowledged these efforts by firms by granting them status as trusted shippers. In 2005, U.S. Customs and Border Protection set new standards for participation in the program and certification by the Department of Homeland Security that a firm was C-TPAT compliant. In tandem with the U.S. effort, the C-TPAT firms approached the Government of Canada which established a similar program named Partners in Protection (PIP).

C-TPAT certified companies undertook considerable expense to participate, and hoped that their trucks would receive fewer random inspections and that in the event of a security incident that necessitated putting border security on high alert, C-TPAT shipments would be allowed to cross the northern border even while other trucks were held for rigorous inspection or denied permission to enter the United States. As the sense of imminent threat of another terrorist attack faded, C-TPAT companies complained that the business case for C-TPAT had changed. Whereas initially, companies invested in the security of their supply chain to gain privileged status at the border, CBP was often unable to deliver speedier inspections as new officers, inspection equipment, computer systems, and border infrastructure construction caused delays. In addition, CBP simultaneously promised C-TPAT members fewer inspections while regularly adding new reasons and criteria for inspections. This contradiction was pointed out by industry associations and business groups, but CBP responded that without participation in C-TPAT, firms would be worse off; a response that many views considered an implicit threat should they consider opting out of C-TPAT. This dynamic tended to reduce communication between firms and CBP, making refinement of C-TPAT more difficult.

At the same time, many C-TPAT members took on more

expenses to secure their operations than required by the program. In some cases, this was because they discounted their own pre-2001 security investments as inadequate, rather than trying to leverage them with U.S. Customs officials unaware of some past practices at individual firms. Other firms saw the C-TPAT criteria as fluid, and hoped to get ahead of new requirements. Confusion about C-TPAT among small and medium sized firms urged to participate by their larger customers (since these small firms were part of the larger firms' supply chains) was an additional problem.

A second attempt at improving scrutiny of commercial traffic was launched in 2005, and known as the Free And Secure Trade (FAST) program. Even before 2001, U.S. Customs, working with General Motors, Ford Motor Company, and Chrysler Corporation began work on the precursor to the FAST program, known as the National Customs Automation Program (NCAP) as a pilot project. NCAP was part of the Automated Customs Environment (ACE) initiative, and was intended as a remedy for congestion at major crossings including principally Detroit, Port Huron, and Laredo (on the southern border). Despite NCAP's origins as a facilitation program, its success led U.S. Customs officials to propose expanding this program as a response to post-2001 security concerns, renaming the program FAST.

FAST differs from C-TPAT in a number of key ways. First, it is a joint program operated by the United States, Canada and Mexico to certify trusted shippers and participants in cross-border supply chains. As a result, the FAST program has engendered greater information sharing among the customs agencies of the three countries on the largest volume shippers. Second, it builds on the C-TPAT and PIP programs by making participation in these voluntary programs a precondition for eligibility for the FAST program. Third, the benefits for FAST participants were made explicit by the governments, and included the designation that FAST shipments were low risk, justifying the diversion of inspection resources to known high-risk and unknown risk shipments. In addition, the expansion of inspection plazas at major border crossings permitted the governments to dedicate lanes to clear FAST program shipments.

FAST and C-TPAT participation is easiest for large firms that have the ability to spread compliance costs across a larger revenue base, and have the staff to keep up with additional paperwork and background checks. This reflects the origins of these programs in pilot projects intended to respond to the pre-2001 needs of large firms for more efficient facilitation of inspections to sustain just-in-time supply chains. On the northern border, according to the Border Policy Research Institute at the University of Western Washington, FAST participants make up 44 percent of all truck shipments at Detroit and Port Huron, but far less elsewhere. Smaller businesses have not found the costs worth the risk of being found to be noncompliant, which can result in penalties and designation as a riskier shipper that

could delay future shipments. Additionally, firms with short supply chains, particularly those that ship unprocessed logs or agricultural products have not found that FAST delivers sufficient benefit to them.

Some truck drivers complain that the requirement of 30 to 60 minute advance notification before a FAST shipment arrives at the border puts a strain on logistics, particularly when the point of origin of the shipment where the cargo is loaded is less than 30 to 60 minutes from the border. In such cases, trucks must park or idle while waiting for the notification period to expire. Time spent waiting could be more productively spent in motion.

The SPP Working Group on Border Facilitation has discussed ways to improve the FAST programs and encourage greater participation, but as the Obama administration takes office, there is no resolution. C-TPAT and FAST remain important programs, but do not meet the needs of all commercial users, in part because they were designed around the needs of manufacturers concentrated in the Great Lakes gateway.

Companies participating the North American Competitiveness Council (NACC), an advisory group set up to respond to the SPP talks, noted in a 2007 message to the leaders of the United States, Canada and Mexico (prior to their summit meeting in Montebello) that a growing concern at the border was not the security procedures that had been established after 2001, but the unpredictability of wait and clearance times at border crossings. Businesses trying to manage their logistics and inventory had lost money due to unexpected delays and so had re-established buffer-time and stockpiled inventory of key parts. This was a return to pre-JIT inefficiency, and the NACC companies warned that the cumulative effects of these actions on North American competitiveness would be negative for all three countries. This is especially true for the United States, which benefits from its central position in North America which has allowed it to become the hub of efficient continental supply chains.

Transitional concerns:

- Unpredictable delays in border clearance are in part due to the serial introduction of new personnel, inspection equipment, and computer systems; these problems should ease over time. Infrastructure construction will be a longer term concern particularly at certain crossings, and efforts to mitigate this uncertainty should be undertaken.

Persisting Problems:

- FAST and C-TPAT do not meet the needs of all commercial shippers at the border, and small to medium sized businesses and border crossings outside the Great Lakes gateway are not addressing this concern adequately.
- C-TPAT and FAST each involve high compliance costs, but have not consistently delivered benefits to justify company investments in compliance. The threat of

penalties for mistakes and compliance problems is a deterrent to participation for firms, rather than an incentive to keep firms participating.

The Energy Border

Although the largest item in United States–Canada trade has generally been motor vehicles and parts, in recent years energy has been the fastest growing category. And although the automotive trade has been a mutual exchange of imports and exports that attains a stable equilibrium, the energy trade heavily favors Canada, which has become the largest foreign energy supplier to the United States.

In 2008 Canada supplied seventeen percent of all U.S. oil imports, and U.S. refineries process most of this product (sustaining high-paying U.S. jobs). Canada also supplied eighteen percent of overall U.S. natural gas demand. Both oil and natural gas enter the United States from Canada through established pipelines, making this trade different from other goods crossing the border. The pipeline infrastructure must be inspected and secured, but the oil and gas cross the border without interruption. Building new pipelines involves some of the same problems as building other infrastructure that crosses the border, with multiple and overlapping permitting processes that make progress slow.

Canada is also a major supplier of electricity to the United States. In 2006, Canada exported 41.5 billion kilowatt hours (Bkwh) of electricity to U.S. markets. It also imported 23.4 Bkwh that same year due to seasonal variations in domestic energy demand for electricity in Canada and the proximity of some U.S. supplies to Canadian consumers. Canada is the second largest generator of hydroelectricity in the world (after China, which leapt ahead with the completion of the Three Gorges Dam project). The Obama administration's plan to build a national Smart Grid for electricity transmission is intended to help alternative electricity generators to reach larger markets, but has the ancillary benefit of allowing Canada to export electricity across more states and sell to markets further away from the northern border. Although there are environmental concerns related to the flooding of land associated with hydroelectric dams, the carbon content of hydroelectricity once a dam is built compares favorably with other modes of electricity generation and imports from Canada will be attractive to many states and metropolitan regions seeking to replace coal-fired plants.

Canada is also the largest generator of nuclear power in North America, and the source of one-third of worldwide uranium ore production. This has led to support in Canada for the establishment of one or more nuclear waste reprocessing and storage facilities as a gesture of responsible environmental stewardship. As an exporter of uranium, some in Canada argue that it should become an importer of the waste byproduct of its use for energy production. The Canadian Shield, an 800,000 square kilometer bedrock formation that stretches across most of the Canadian land

mass provides ideal geology for safe storage of nuclear waste material.

The largest source of Canadian energy potential is the oil sands deposits located principally in the western provinces of Alberta and Saskatchewan. The carbon expenditure involved extracting bitumen from oil sands is high, and has led the Alberta provincial government to invest \$2 billion in oil royalties in researching methods for effective carbon capture and sequestration (CCS). The Obama administration pressed Congress for \$3.4 billion for CCS research with a view to addressing the carbon emissions from coal-fired plants in the United States which was subsequently approved as part of the stimulus legislation in February 2009. The Canadian federal government has promised to invest an additional \$1 billion in CCS research as well in 2009. The research challenge is to develop ways to capture carbon emissions, after which storage is relatively simple. However, the same vast expanses of Canadian geography that provides locations for the safe storage of nuclear waste could also provide safe storage for captured carbon if CCS research bears fruit.

This suggests the potential for U.S. exports of nuclear waste and even captured carbon for storage in Canada. Although currently there are significant shipments of ordinary garbage from Metro Toronto to landfills in border states such as Michigan (although the volumes have recently been decreasing due to the opening a new landfill in Woodstock, Ontario that now handles most of Toronto's trash), energy-related waste shipments would create new challenges at the northern border.

At DHS, energy trade across the U.S.-Canadian border has been addressed most directly as a challenge of critical infrastructure protection and preparation for emergency response. Since this is an area where DHS collaborates well with state and local government, first responders including police and fire services have learned about current cross-border infrastructure and its vulnerabilities and energy firms that own this infrastructure or the energy that utilizes it have been in close contact with public sector officials at all levels in both countries. Participation in tabletop exercises and drills has deepened the mutual awareness of capabilities and knowledge of procedures and contingencies across the public and private sector alike. This is an area of border security management and trade facilitation between the United States and Canada that has worked remarkably well.

Transitional Concerns:

- Canadian energy supplies cross the northern border into the United States more easily than other imports, and energy companies could play a greater role in debates about the management of the U.S.-Canadian border

Persisting Problems:

- Energy trade between the United States and Canada is likely to outgrow current infrastructure, and place

new strain on overlapping jurisdictions at the border to expedite review and permitting of new infrastructure.

The Commuter Border

There is a developed community of regular commuters who cross the U.S.-Canadian border more frequently than other border users. Some are on assignment for their firm or with a major client and need to cross the border repeatedly, whether to come home on weekends or only when work pressures allow. Others have found work on the other side of the border, but do not wish to change their country of residence, as with Canadian nurses who live in Windsor and commute to jobs at Detroit hospitals. And there are some who have close relatives or friends in the other country who they visit several times each year.

There are established migratory patterns for some commuters, such as Canadian retirees who winter in Florida and Arizona, or Canadians visiting U.S. hospitals for medical treatment. A significant number of students cross the border to attend university in both directions, and some even commute daily to attend classes. Still others cross less predictably, when business requires. What links border commuters as a group is the frequency with which they encounter customs inspections, which provides an incentive to master requirements and obtain necessary documents for easy travel.

Just as with cargo, if inspectors at the border have more information in advance about who is crossing, it is possible to make better judgments about the risk associated with allowing the individual to enter. The United States and Canada have recognized this by creating a series of “trusted traveler” programs that promise quicker clearance at the border for low-risk individuals willing to voluntarily provide additional personal information in advance that can be stored in a database and accessed by border officials.

In 1992, an experimental effort was launched in the Cascadian gateway known as PACE (for Peace Arch Crossing Entry) by the U.S. Immigration and Naturalization Service.

A dedicated commuter lane was established at the Blaine-Peace Arch crossing for use by PACE participants. The PACE pilot program was developed by the U.S. Immigration and Naturalization Service and promoted to users locally with the support of the Whatcom Council of Governments, a regional transportation planning organization that includes many of the U.S. local governments in the Cascadian gateway. Canada established a similar program called CANPASS that was available at several border crossings. On the U.S.-Mexican border, the similar SENTRI (for Secure Electronic Network for Travelers Rapid Inspection) trusted traveler program was launched in 1995 as a pilot program at the Otay Mesa crossing

in California. The growing experience with trusted traveler programs led the U.S. Immigration and Naturalization Service to begin developing an expanded program for the northern border based on lessons learned from both PACE and SENTRI, and introduced NEXUS (a name that means “connection” but not an acronym) at the Port Huron, Michigan border crossing in 2000. After September 11, 2001, the United States cancelled the PACE program and replaced it with a planned expansion of NEXUS, which took place gradually, opening in 2002 (at Blaine-Peace Arch and Point Roberts crossings in Washington) and 2003 (at Buffalo and Detroit). Unlike PACE or SENTRI, NEXUS was a joint U.S.-Canadian program, with both governments enrolling traveler data into a single database.

Users complained that applying for NEXUS was a time-consuming process, and mistakes by NEXUS members were treated harshly. At points of entry where lines were not long, many commuters chose to cross without enrolling in the program. Violations such as using the NEXUS lane in a vehicle that was not enrolled in the NEXUS program, or failing to declare a purchase, or having a passenger who is either not enrolled in NEXUS or does not have his or her NEXUS card at the time of crossing all could lead to revocation of NEXUS membership.

Nonetheless, the NEXUS program expanded and border agencies in the United States and Canada responded to concerns with refinements. In January 2009, NEXUS was the primary trusted traveler program in use at the U.S.-Canadian border with 265,000 members (of which roughly 30 percent at U.S. citizens, and 70 percent are Canadian) and 16 border crossing locations with NEXUS lanes. The NEXUS program was expanded for air travelers in 2008, and the Air NEXUS program had self-clearance kiosks at the eight Canadian airports with U.S. Customs pre-clearance. NEXUS use by boaters was encouraged with 33 marine reporting locations.

The evolution of U.S. trusted traveler programs has continued with the introduction of Global Entry as a pilot program in 2009. Global Entry operates in a manner similar to Air NEXUS, with self-clearance kiosks at selected international airports. Unlike NEXUS, the Global Entry program is operated by the United States alone, and only U.S. citizens and lawful permanent residents are eligible to participate in the program. However a major benefit of Global Entry is that it can be used when returning to the United States from any foreign destination, not just Canada or Mexico. Depending on the costs associated with enrollment and membership in multiple trusted traveler programs, the greater utility of Global Entry may make it the preferred option for regular U.S. travelers,



including those who commute across the U.S.-Canadian border.

There is a risk that this will undermine the NEXUS program over time, as Americans migrate to Global Entry and NEXUS becomes a program mainly for Canadians. U.S. Customs and Border Protection is showing sensitivity to this possibility with the introduction of the Global Online Enrollment System (GOES) which allows U.S. citizens to apply for and access their record under NEXUS, SENTRI, FAST and Global Entry and linking these programs in a way that promotes the use of the full range of options available to U.S. trusted travelers.

Another issue for regular border crossers in particular professions is the recognition of professional credentials and training qualifications. Although not a condition for entry into either the United States or Canada, recognition of degrees and licenses issued in another jurisdiction is necessary for individuals to work even temporarily. This concern was recognized in NAFTA, which led to the establishment of the TN Visa Program for nonimmigrant professional workers.

NAFTA listed certain categories of professionals for which nonimmigrant professional work visa would be issued based on specific minimum credentials such as university degrees and/or work experience as agreed by the governments of the United States, Canada, and Mexico. Where associations of professionals in the three countries came to agreement on such standards for specialists in their area, they could petition the governments to add their profession to the NAFTA list.

Since the NAFTA TN visa program applies to a relatively small number of border crossers, major weaknesses in ICE staff training has led to inconsistent and sometimes perverse application of the TN visa rules, as well as other business travel rules at the border. This has in turn led to calls by business groups for broader labor mobility for professionals and for individuals, a topic that was considered in the Security and Prosperity Partnership of North America's Business Facilitation working group.

The difficulty for many professionals however is that licensure and other regulation is largely a state and provincial responsibility in the United States and Canada, and so the TN Visa represents only permission for entry rather than an acceptance of qualifications. In the United States, many professional associations operate accreditation programs for schools so that degrees granted by an institution that receives appropriate accreditation will be recognized in other U.S. jurisdictions. In Canada, provincial governments set such standards for schools, and degrees and credentials do not automatically receive recognition outside the province.

For those U.S. and Canadian professionals who do receive recognition of their credentials and appropriate visas and have the chance to work for an extended period of time outside their own country, there is a further problem: neither

country grants a spousal right to work to the married partners of a permitted foreign worker. What this means is that for couples, particularly those with children, labor mobility is limited unless the spouse is willing and able to afford to stop working for a period of time when their partner is working legally in Canada or the United States. In contrast, there would be no question that children of such a couple would have the right to be enrolled in local schools; the restriction is only on the right to work.

Without a spousal right to work, many professionals structure their work in the other country on the basis of regular commuting back and forth. In addition to the inefficiency generated by the additional costs associated with travel, this places a significant strain on family life for professionals and specialists in Canada and the United States, and adds to the number of low-risk border crossers who must be processed at the border. There are no reliable figures for the number of individuals affected by this dilemma, but the anecdotal evidence suggests that it is a growing problem for professional couples and a hindrance to continued collaboration among Americans and Canadians.

Transitional Concerns:

- Existing trusted traveler programs have a limited enrollment, and can be onerous to apply to join. Competition between NEXUS and Global Entry for U.S. citizens could undermine the rationale for maintaining two programs.

Persisting Problems:

- Mutual recognition of professional credentials and qualifications applies currently to only certain professions, and more could be done to expand the list if states and provinces were empowered to take the lead in this area.
- Neither the United States nor Canada extends an automatic spousal right to work for the partners of permitted workers from the other country. Addressing this issue would improve labor mobility and workforce flexibility in both countries

The Amateur Border

Of the roughly 300,000 individuals who cross the U.S.-Canadian border daily, the majority are not regular commuters in trusted traveler programs. They cross the border for tourism, lunch with a friend, or a rare trip to connect with relatives or business contacts. In some cases, they are part of an organized group crossing the border to attend a convention or conference, or as part of a senior citizen or school-sponsored tour.

These individuals are amateur border crossers, in the sense that they have less familiarity with inspection procedures and documentation required for crossing, and may be nervous or wary of authorities at the border for reasons unrelated to any risk they pose to security, but out of inexperience. In some cases, amateur crossers rely on anecdotal horror stories about border inspections for their information, and approach border inspections accordingly.

The amateur border poses a challenge for the systems put in place at the U.S.-Canadian border since 2001. As commercial and commuter users of the border place pressure on DHS to provide faster processing and facilitation of legitimate goods and travelers, amateurs take a disproportionate share of time and energy to process—think of the challenge for an inspector when the family with small children arrives in a minivan at a border inspection booth without passports for all the children after a long wait in traffic on a hot summer day, needing bathroom breaks and naps. Behind the minivan are trucks and regular commuters familiar with procedures, but they must wait their turn.

Trusted traveler programs help to divert some of the more experienced travelers into special lanes, but at many

The most significant change in border procedures for amateur travelers since 2001 has been the introduction of a passport requirement for U.S. citizens to re-enter the United States from Canada.

land borders, backups begin to form before such travelers can access designated lanes for NEXUS or FAST. For school groups and organized tours, there is the opportunity for outreach to school districts, university sponsors, tour companies, and other mediating organizations that can in turn pass on information on new requirements to inexperienced travelers.

A special category of amateur crossers are migrants from third countries (that is, neither U.S. nor Canadian citizens or landed immigrants). More familiar with other borders, such individuals are frequently unprepared for recent changes in land border procedures. The introduction of the United States Visitor and Immigrant Status Indicator Technology (USVISIT) system at the land border in 2004 provides a tool for CBP officials to manage the transit of U.S. visa holders, but it is not available at all crossings and only in secondary inspection areas at certain ports of entry. Visitors from several countries need a visa to enter the United States, but are not required to obtain a Canadian visa to enter Canada. Some of these nations are considered terrorism risks by the U.S.

The most significant change in border procedures for amateur travelers since 2001 has been the introduction of a passport requirement for U.S. citizens to re-enter the United States from Canada. In the wake of the September 11, 2001 terrorist attacks on the United States, Congress created *The National Commission on Terrorist Attacks Upon the United States* (also known as the 9-11 Commission), an independent, bipartisan commission of inquiry that began meeting in late 2002 and issued a report and recommendations to Congress in July 2004. One of the Commissions' specific

recommendations was that an exemption from passport use by U.S. citizens when re-entering the United States from a small number of countries including Canada be ended. Congress subsequently passed the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), which mandated an end to this exemption by January 2007 and funded a Western Hemisphere Travel Initiative (WHTI) that was designed to add resources to speed up passport issuance by the Department of State in anticipation of increased demand for passports, promote public awareness of the rule change among U.S. citizens, and explore the development of "secure travel documents" that would satisfy the passport requirement as an alternative, for the convenience of regular travelers. Congress subsequently revised the implementation deadlines, moving the mandated end of the passport exemption to June 2009.

Passports have become more secure travel documents—harder to falsify and counterfeit—in the United States and many allied countries due to an international effort to incorporate biometric identifiers and machine-readable information into a new, international standard for passports.

The United States worked with other countries to develop a consensus on which biometric elements (such as fingerprints, or photographs compatible with facial recognition) would be included in a new International Civil Aviation Organization (ICAO) standard. The United States then worked with major trading partners and allies, including Canada, to implement the ICAO standard and a machine-readability standard by 2004. Although many countries took longer to reach the new standard, U.S. and Canadian passports are now significantly upgraded.

Applications for U.S. passports are increasing in response to the new requirement. In 2006, the Department of State estimated that 27 percent of U.S. citizens held valid passports, but applications were coming in at 18 million per year, a 52 percent increase on the average for previous years. U.S. passports are valid for ten years for adults (over 17), but only for five years for minors. The requirements for minors include an in-person interview with parents and guardians present. In addition to the cost of each passport (\$97.00), some in the travel industry worry that the passport requirement will prove too burdensome for families, who will vacation in their home country instead of traveling abroad. In the U.S.-Canadian border region, this is a particular concern since short trips have been a mainstay of local tourism for many years.

In response to the specific concerns of school groups and traveling youth sports teams, in February 2007 the Department of Homeland Security amended the passport requirement to allow U.S. and Canadian citizens ages 15 or younger with parental consent to cross the borders at land and sea entry points with certified copies of their

birth certificates rather than passports. U.S. and Canadian citizens ages 16 through 18 traveling with school, religious, cultural, or athletic groups and under adult supervision will also be allowed to travel with only their birth certificates. The risk posed by such groups of amateur travelers is low, and yet they have the potential to delay processing of other travelers and to draw resources away from the inspection of higher risk and unknown risk shipments and travelers.

Initial efforts to develop a passport alternative card at the State Department led to discussion with the Department of Homeland Security over a standard for RFID chips that would be embedded in each card and point to an individual's computerized record at the border. The two departments ultimately came to agreement on an RFID standard, which was then promoted internationally for vicinity-read identification documents. The U.S. passport card is linked to the issuance of a passport, and so the application process is similar.

The Washington state pilot program to issue enhanced driver licenses (EDLs) was based on this standard. Washington residents can go to the local branch office of the Washington State Department of Licensing and apply for an EDL, submitting the same documentation and biometric identification that would be required for the State Department to verify citizenship and issue a passport. This information is then entered into a database and transmitted to the State Department, which authorizes the use of an RFID chip that Washington state incorporates into an EDL. The pilot program was judged to be a success by the Department of Homeland Security in 2007. New York now offers EDLs, and other states are in talks with the U.S. federal government to join the program as well.

The advantages of an EDL over other passport alternatives include the convenience of applying locally (especially with children) and the similarity between using a new EDL to cross the border with the former common practice of presenting a driver license at the border when re-entering the United States.

In addition to EDLs and passport cards issued by the Department of State, other secure travel documents are now permitted for use at the U.S.-Canadian border, including trusted traveler cards such as NEXUS and SENTRI (where applicable), or FAST, U.S. Military Identification with Military Travel Orders, U.S. Merchant Mariner Document when traveling in conjunction with official maritime business, Native American Tribal Photo Identification cards, enhanced tribal I.D. cards, and the Form I-872 American Indian Card.

As the passport requirement is implemented, U.S. Customs and Border Protection inspectors will have latitude to issue warnings for a period of time to Americans seeking to return home without a passport or acceptable alternative. For many amateur travelers, and despite efforts to

educate them about the new rule, such warnings may be necessary. The benefit of such warnings will be to introduce anecdotal stories, without the horror, that encourage more travelers to obtain a passport or alternative.

Transitional concerns:

- The passport requirement took full effect at the land border in June 2009, and amateur travelers will encounter some delays and hassles, in turn affecting other traffic.

Persistent problems:

- As rules and procedures change frequently at the land border, the slowest group of border crossers to adjust will be the amateur travelers, requiring policymakers to find ways to reach them with public information.

The Illicit Border

The reason for the investments the United States has made to improve border security is ultimately to prevent the transit of harmful people and things across U.S. borders, and so no discussion of border user types would be complete without acknowledgement of illicit border users: smugglers of drugs and weapons, human traffickers, and potential terrorists. The northern border is large and poses particular challenges for law enforcement. In some areas, it is remote and difficult to monitor; in other areas, the number of cars, trucks and people flowing across the border provides opportunities to "hide in a crowd" and attempt illicit entry to the United States at busy ports of entry.

Canada is a source of drugs smuggled into the United States, mainly locally-grown marijuana, methamphetamines, and MDMA (Ecstasy). Asian drug trafficking organizations have developed sophisticated networks in the Vancouver and Seattle areas. In 2005, a major tunnel used for drug smuggling was uncovered in the Cascadian gateway, running between British Columbia and Washington. Given the more restrictive gun ownership laws in Canada, the United States is a source of handguns and other weapons smuggled into Canadian cities. Human trafficking includes the smuggling of people from outside North America, particularly Asia and Africa, who come in search of a better life but at the hands of abusive criminal organizations that secure entry for illegal migrants for a fee, and often then exploit them under the threat of exposing their immigration status to authorities.

Organized crime has played a larger role in Canadian drug trafficking, using Canada as a conduit to lucrative U.S. markets. Asian gangs have moved heroin and cocaine through the Port of Vancouver, and South American drug cartels have made similar use of Vancouver, Montreal, and Toronto. Human trafficking of women and children for prostitution and the production of pornography is also increasing, using the smuggling routes established



for the drug trade. Violence associated with these activities has alarmed Canadians, and the United States and Canada have cooperated through IBETs (Integrated Border Enforcement Teams) in tracking and interdicting some but certainly not all of the contraband and illicit activity. As with terrorism, it is important to note that a threat that comes through Canada is as dangerous as a threat that originates in Canada, and the northern border serves as an additional line of defense for U.S. citizens that is important to law enforcement.

One source of concern for the United States and Canada has been smuggling through Native Indian lands along the border. The Jay Treaty signed by the United States and Great Britain in 1794 guaranteed the Mohawk a reservation of land that straddles the U.S. border with Canada in northern New York, Ontario and Quebec, and smugglers have used this territory as a route for smuggling everything from alcohol during Prohibition to cigarettes (to evade higher

Comparisons between the United States' northern and southern borders often overlook the significant degree of cooperation and trust that has been developed between U.S. and Canadian law enforcement officials.

Canadian excise taxes) to drugs, weapons, and people. Since 2001, the United States and Canada have increased their surveillance of adjacent territories and have made several arrests related to the use of native lands for smuggling.

Mexico is a potential contributor to smuggling problems at the U.S.-Canadian border as U.S.-Mexican border controls tighten against illegal immigration and as violent drug trafficking organizations seek the routes of least resistance for entering the U.S. market. Flights from Monterrey or Mexico City to Montreal or Toronto can cost as little as \$500 and Mexicans do not require a visa to visit Canada. Canada could become a tempting route to the United States for some Mexicans seeking work. Unlike the United States, Canada has not become a partner with Mexico in the Merida Initiative to combat drug trafficking violence; to plug a potential back-channel for smuggling, the United States should encourage Canada to more closely cooperate with U.S. and Mexican law enforcement and monitor the progress of the Merida Initiative.

The most significant program to address the illicit use of the northern border has been the establishment of IBETs at the recommendation of the first U.S.-Canada Cross-border Crime Forum meeting in 1997. The Cross-border Crime Forum was created to encourage law enforcement agencies in both countries to work together more effectively to combat transnational crime, including smuggling, telemarketing fraud, money laundering, child pornography and child sex

tourism, and cybercrime, as well as to coordinate the search for fugitives and missing persons. The first IBETs were tested along the Washington-British-Columbia border, and brought together federal, state, and local law enforcement officers from the United States and Canada in a joint task force that could conduct investigations and enforcement operations, as well as joint training exercises. The IBET model allowed resources and intelligence information to be shared, and overcame in a pragmatic way a number of the jurisdictional issues that impede close cooperation.

Since 1997, the IBET model has spread to cover most of the northern border with more than 30 IBETs fostering regional law enforcement coordination. IBETs also train for emergency response and critical infrastructure protection, and have increased the awareness of U.S. law enforcement concerning risks, assets, and liabilities in neighboring areas of Canada. The IBET model is a particularly good example of cooperation between city, county, state/provincial, and

federal cooperation related to the border. Rather than assume the full burden of securing the border, the IBETs allow the U.S. federal government to gain leverage from local knowledge and taxpayer expenditures for public safety at other levels of government.

Comparisons between the United States' northern and southern borders often overlook the significant degree of cooperation and trust that has been developed between U.S. and Canadian law enforcement officials, from federal counterparts to state and border city police forces. These relationships predate the creation of IBETs, but are powerfully reinforced by IBET interaction. It is wrong to argue from this that close law enforcement trust and cooperation on the southern border is impossible, but nonetheless the northern border provides a best-practice model that should be studied as a standard for the future development of U.S. and Mexican law enforcement cooperation over time.

Transitional concerns:

- SBInet raises local concerns over surveillance of legitimate activity that should be addressed by IBETs
- Success against drug traffickers and human smugglers in Mexico may lead to a shift of smuggling routes through Canada, putting new pressure on the northern border

Persisting problems:

- Lucrative smuggling has attracted new interest from international organized crime in the U.S.-Canadian border that only concerted and coordinated efforts by all law enforcement organizations in the two countries will be able to confront. ■

Toward a New Frontier:

POLICIES THAT PROMOTE PRECISION AND CONSULTATION

One challenge that the Obama administration and the Canadian government face at the U.S.-Canadian border is to improve upon the post-2001 changes to border management at a time when both national economies are weakening, fiscal resources will be limited for the near term, and global challenges from climate change to terrorism compete for leadership attention. This paper has outlined another central problem: Progress toward improving the U.S.-Canadian border has been held back by the misconception that the border is a single and uniform line with problems and opportunities equally distributed along its length. In fact, the U.S.-Canadian border is diverse, and requires policy responses to accommodate this diversity.

The U.S.-Canadian border has four major regions, each with different geographic characteristics: the Cascadian gateway in the Pacific Northwest; the Great Lakes gateway in the Midwest; the vast expanses encompassing the Rural gateways; and the Perimeter approaches to North America from the Atlantic, Pacific, and Arctic Oceans.

It also has five important types of users, and many programs put in place since 2001 are designed to meet the challenges associated with one or more of these: the Commercial users, Energy shippers, Amateur crossers, and Illicit border users.

Table 1 gives an impressionistic sense of the intersection between those regions and those user groups. The relationship between user types and border regions is not uniform. While all regions have concerns about Illicit users, the Great Lakes border crossings face the greatest concentration of commercial users and commuters. The Cascadian border has a less intense concentration of any one type of user, which may explain a willingness to experiment across a range of areas to assist commuters, amateur tourists, and commercial border users. The Rural border plays host to considerable energy infrastructure, and a large number of occasional and amateur users at the border. At the

Perimeter, airline passengers are the most likely amateur users, but the typical user is relatively more sophisticated due to the additional complexity and more advanced systems for conveying information to overseas travelers and shippers.

The significance of the diversity of the border is that it has had a direct impact on the ability of the United States to make effective border policy.

The U.S. federal government views national security as an essential element of border security, and the national aspect of national security inclines federal policymakers naturally toward strategies that are uniform across U.S. borders (linking the land borders with Canada and Mexico,

Table 1. Presence of User Types by Region
(darker color indicates greater intensity)

	Cascadian	Great Lakes	Rural	Perimeter
Commercial	Dark Blue	Dark Blue	Light Blue	Medium Blue
Energy	Light Blue	Light Blue	Dark Blue	Light Blue
Commuter	Dark Blue	Dark Blue	Light Blue	Medium Blue
Amateur	Dark Blue	Dark Blue	Dark Blue	Light Blue
Illicit	Dark Blue	Dark Blue	Dark Blue	Dark Blue



and the perimeter on a continental or even global basis) and along the border (to ensure consistency from one end of the border to the other, with no weak points).

Confronted with the “one border” policy approach often taken by the U.S. federal government, regional and border user types just as naturally register objections that their local or user-specific circumstances warrant exemption or special consideration. Sometimes, these conflicts can be resolved to the satisfaction of both federal and border regions and users. At other times, they lead to a feeling that the federal government is not listening, or trampling insensitively over local concerns.

In the United States, federalism allows numerous avenues for dissatisfied interests to pursue: protesting to state governments, or to congressional representatives; forming coalitions and NGOs to articulate the concerns that are not being addressed; and taking defensive and often obstructionist actions in order to block or delay implementation of federal initiatives. This feedback loop complicates the implementation of federal initiatives, and consumes the

In order to make significant improvements to the northern border, the U.S. federal government and border stakeholder groups will need to first address current problems, then look to a new mode of managing border policy to reduce miscommunication and improve information flow between Washington, D.C. and the border itself.

time and energy of federal policymakers. If an administrative fix seems prudent, officials at the U.S. Department of Homeland Security take the lead in brokering a resolution with dissatisfied groups, often under pressure from Congress, state governors, or mayors. If a legislative or fiscal fix is preferred, Congress must broker the regional or user type interests involved, and build an issue specific consensus for a policy change to accommodate the affected group, a negotiation process that can be time-consuming as well as difficult.

The September 11, 2001 terrorist attacks provided a catalyst for U.S. federal policymaking to upgrade border security that temporarily allowed regional and user-specific interests to be overcome. But the willingness of local and sectoral interests to defer to Washington has declined as the urgency of September 11, 2001 has receded and as the consensus about the manner in which the border should be managed has weakened. Moreover, this breakdown of the consensus occurred along fault lines that reflected the unaccommodated diversity of border regions and users, as well as

tensions between the needs of users and regions along the northern and southern land borders of the United States.

This dynamic has made border policymaking increasingly difficult since 2001, and yet it is nested within another set of conflicts between continental and global perspectives. Many commercial, energy and commuter users are cognizant of the global competitive challenge for their firms, especially in a weakening economy. For them, the marginal costs associated with border problems are a source of concern, and the answer may well appear to be to relocate operations and investments to avoid border-related risk. If the policy process for fixing a particular border’s concerns becomes too intractable or unresponsive, some firms among these border user types could opt out of border debates, taking their lobbying clout with them, and making it much harder to successfully address problems.

At the same time, nested within the northern border is a series of local conflicts and political dynamics. These can and do provide user types and the governments of the border regions with alternative coalitions, leveraging contact with Canadian counterparts in an attempt to press the Canadian government to press Washington on an issue bilaterally. PNWER, the Great Lakes Governors Association, the Western Governors Association, and the New England Governors Association all regularly meet with neighboring Canadian provincial premiers in attendance. In addition, hundreds of meetings taking place every month connect local government officials in the three countries. Building coalitions at the regional level can permit the border regions to join forces in opposition to U.S. federal actions, or to press for changes.

It is these pressures that have made it difficult to successfully implement a common strategy for U.S. land borders since September 2001. Many important initiatives have faced delays and U.S. federal officials have been forced to make changes, however reluctantly, as a result of local pressure. Delays in building bridges at Detroit and Buffalo and the delay in implementing the passport requirement had their origin at the local level.

Making distinctions among these regions and user groups is now more necessary than ever, as the Obama administration and the Canadian government seek to refine post 2001 border policies rather than to return to the status quo ante. With limited resources and political energy for major change, efforts to improve the operation of the border must be targeted and make use of all available tools and ideas.

The border between the United States and Canada is not in crisis. Conditions at the border and with border policies and programs managed by the U.S. federal government are

tolerable, though imperfect and the source of significant frustration for specific regions and user groups. Without a crisis atmosphere, and given the major challenges facing the Obama administration, the U.S.-Canadian border will not garner extensive presidential and congressional attention in the coming years. The political capital and energy of U.S. federal leaders will be expended elsewhere to address more pressing priorities.

The diversion of presidential and congressional attention away from problems at the U.S.-Canadian border is a reflection of the fact that the problems at the border are either transitional (making them easier to dismiss) or persisting but local, so that relatively few Americans are directly affected by them. The diversity of the northern border in its distinctive regions and border user types means that it is not possible to identify a single action or investment or reform that will generate wide support.

The diversity also works against the development of a border consensus that would allow Americans and Canadians to develop a vision of a “New Frontier” that would go beyond immediate fixes to present problems and begin to shape a truly modern border paradigm. Proposals to shift activity away from the U.S.-Canadian border by harmonizing various policies and regulations between the United States and Canada are all dependent on a broad consensus. That consensus is absent today because borderlands residents, state and metropolitan community leaders, and major border user groups are preoccupied by the problems that they experience today, in a weakening economy where every added cost hurts the bottom line. Focused on their own concerns, which too often are not widely shared, border stakeholders fragment and any hope of a consensus is stymied.

Canadian border stakeholders are in a different position. With more than 85 percent of the Canadian population living within 200 miles of the United States border, and with more than 80 percent of both Canadian exports and imports flowing across the U.S.-Canadian border, Canadians find it easier to agree on the importance of a better-managed border. To be sure, diversity along regional and user-type lines exists among Canadian border stakeholders as well, but the Canadian federal government has been able to bridge these differences to form a common front in many cases when it comes to dealing with border issues and with the United States federal government in particular. As a series of border studies produced in Canada attest, there is widespread frustration and confusion in Canada over the difficulty of convincing Americans of their “common sense” view of the future of the border. Yet what is common sense in Canada is hardly even common knowledge in many U.S. borderlands communities.

In order to make significant improvements to the northern border, the U.S. federal government and border stakeholder groups will need to first address current problems;

and second, look to a new mode of managing border policy to reduce miscommunication and improve information flow between Washington, D.C. and the border itself. Progress along these lines will require greater precision in problem identification and broader consultation with local authorities and stabilization groups.

Precision: The more precisely problems at the border can be defined; the more targeted and efficient the policy response can be made. Parsimony is necessary because of limited resources for response, but also because of the tendency to conflate problems in the design of programs—such as FAST—that work well in one region or for one sector, but fail to meet needs elsewhere. Similarly, new problems are created when the response to one problem—the need for more APHIS inspectors in the Rural gateways—is financed by citizens in other areas—such as airline passengers paying hidden APHIS fees. Precision has also helped to improve existing programs, such as when DHS created a special exemption to the passport requirement for school groups, or when FAST provided a greater degree of clarity concerning the benefits from participation in the program.

Since 2001, the northern border has received significant attention from U.S. and Canadian federal policymakers, resulting in the largest and most comprehensive investment in northern border security infrastructure, personnel and advanced technology in history. This investment is now being followed by a historic public investment in the U.S. economy by the Obama administration and Congress that has significant implications for northern border gateways and border corridors. Yet this new investment comes while communities are still adjusting to the post-2001 investment in security, and critical linkages like the new bridges proposed to connect Detroit and Windsor, Buffalo and Fort Erie, are years from completion. This will make the transitional adjustments necessary for local communities correspondingly more acute.

The Obama administration inherits a northern border that, while not in a state of crisis, has numerous legacy problems from the post-2001 changes at the northern border that continue to retard local economic growth and competitiveness. While it is important for border stakeholders to raise awareness and to articulate problems as precisely as possible, the U.S. federal government must in turn respond to these concerns.

The unfinished business of responding to legacy problems associated with long-term neglect of the northern border as well as the post-2001 border policy changes and infrastructure investments must be undertaken before U.S. policymakers can begin work on a new and better approach to border policy. As illustrated in this report, the transitional and persistent problems at the border are particular to border gateways and border user groups, and as such they expand the latent cleavages of a diverse border. A keenly

felt specific problem will obscure common concerns with other border stakeholders, and exacerbate the problems at the fragmented northern border.

To address this, the U.S. federal government should:

■ **Engage a state-level Homeland Security network.** The department of Homeland security has an established network of state officials with appropriate federal security clearance to assist in coordinating the state and local responses in the event of an emergency. These individuals are appointees of and advisors to state governors, and maintain contact with county and metropolitan leaders and potential first responders across their states. In addition to natural disaster response, these individuals develop Critical Infrastructure Protection plans that identify priority resources and vulnerabilities.

Local federal representatives in northern border states, such as FBI bureau directors and Customs and Border Protection port directors should be charged with forming an action plan for addressing problems with the state Homeland Security advisors coordinating input and action from local officials. An action plan for each port, similar to the Smart Border Action Plans, should then be submitted to the DHS Secretary and serve as an agenda for northern border priority improvements and investments.

- Ensure that performance evaluations for CBP Port Directors and other local federal government representatives should include an assessment of their investments of time and resources in developing local governmental relationships.
- Emulate the 30 point U.S.-Canada Smart Border Action Plan on a local scale, DHS should charge CBP Port Directors to convene local officials and users of their port to meet and develop **port-specific Smart Border Agenda Committees.** Port Directors must reach beyond the immediate border gateway and its adjacent community to solicit input from user and communities along the border corridor(s) that connect to their border gateway. The Smart Border Agendas developed by these local stakeholder committees would become the basis for more precise local problem identification, a local response where appropriate, and the communication of local conditions and concerns to DHS headquarters. Renewable agendas at the local level would replicate the best features of the Smart Border Action Plan—stakeholder input and a clear agenda for action—while fostering greater communication with policymakers in Washington.

Consultation: Some of the best solutions to past border problems came when state/provincial and local stakeholders were engaged in the policy process. The development of EDLs, the creation of IBETs, and other innovations trace

their origins to borderland community leadership. One reason for this is time: state and provincial leaders, county and metropolitan neighbors have more time for one another, build trust and even friendships, and can develop working relationships that national leaders cannot. For many federal programs, allowing greater flexibility and latitude to regional representatives—“local feds”, such as CBP port directors and their deputies at border crossings—to work out procedures and outreach efforts that make sense locally without diminishing security standards would go a long way toward improving the support for border policies in borderland areas.

Political scientist Robert Putnam identified the concept of social capital as the accumulation of a kind of goodwill among individuals who develop trust and confidence in one another, often through frequent interaction and mutual knowledge. Where there is a lot of social capital present, people tend to work together more easily with fewer conflicts and greater accomplishment; where social capital is undeveloped or absent, individuals must first establish trust in one another before they can transact business effectively.

The social capital among northern border stakeholders is greatest at the local level, and least concentrated at the federal level. This follows from the common sense observation that at the local level, mayors on opposite sides of the border have more opportunities for informal interaction and can build up mutual trust and understanding. Northern border state governors similarly have time and opportunity for more frequent contact with neighboring Canadian provincial premiers, while the U.S. president and Canadian prime minister interact more formally, and less frequently.

At the same time, the responsibility for border policy management is concentrated in federal government departments and agencies that can tend toward a centralized approach, exemplified by the “one border” approach of the U.S. Department of Homeland Security and its component parts in the interest of standardization of inspection and regulation practice at all U.S. land borders and a uniform, high level of security for the territory and citizens of the United States.

Over the medium term, the U.S. federal government should take steps to empower local federal representatives to listen to the concerns of border stakeholders. For this listening effort to be seen as valuable for border stakeholders, DHS and other federal departments working on border policy will need to decentralize some decision-making.

Any such decentralization, however, must be done carefully. This is particularly true for some of the major infrastructure projects along the border, where the interaction of federal, state, provincial, metropolitan governments with companies and NGOs has led to slow progress in building new infrastructure. Even where federal policy is clear, it is a mistake to underestimate the capacity of local resistance to block federal initiatives. Better coordination will be easiest

to achieve if federal officials working in the community are empowered by Washington and Ottawa.

One good model for doing so is the planned coordination of “first responders” with federal authorities. The appropriate and vital role for federal authorities in such cases is to coordinate planning, to set broad objectives, standards, and baselines for action. At the local level, implementation within this policy framework falls to locally-positioned federal officials and others on the scene. This practice has been followed, with improving efficacy, in response to crises and disasters since 2001, setting a relevant precedent. The interoperability of local and local-federal responders, however, is the product of meetings, exercises, and engagement through IBETs, infrastructure planning, communication and coordination on a regular basis all of which prepare officials to respond seamlessly and cooperatively in a crisis.

Consultation and empowering regional and local authorities with the flexibility to determine how best to achieve national goals in their varying areas should foster the same seamless, two-way communication among northern border policymakers and stakeholders on an ongoing basis, so that future problems, however specific to user groups or particular gateways, are communicated to those with responsibility to address them. Establishing a channel and soliciting communication from border stakeholders will improve the management of the northern border substantially, by overcoming some of the crosstalk among border stakeholders that has undermined the ability of Washington, DC policymakers to “hear” what the problems at the northern border are. At the same time, decentralization will permit DHS and other U.S. agencies to leverage local social capital to identify and respond to problems using federal and even local resources.

With this in mind, U.S. federal policymakers should:

- Adopt a **Total Quality Management (TQM) model for Continuous Process Improvement at the northern border.** In complex manufacturing, managers frequently seek input on improvements, even small ones that could improve efficiency from workers on the assembly line and on the shop floor. Individually, these small changes do not alter the product but cumulatively they can have a dramatic effect on productivity and competitiveness. All that is required is empowerment at the working level of the plant.

Empowering local federal officials, from CBP port directors to individual inspectors and members of the Border Patrol to communicate concerns will allow the federal government’s northern border management to become more responsive to local and sectoral diversity of needs and interests. Specific gateways and user groups need an input channel to U.S. federal policymaking—and the local federal officials are best-positioned to serve as conduits, building on social capital in local relationships.

- **Empower local federal officials in ways that ensure greater lateral communication and resource-sharing—**that is, without recourse to Washington, DC. Seasonal variations in cross-border traffic flows due to harvest cycles, or tourists surging in response to local sports or civic events, place additional stress on specific border gateways. For example, the 2010 Winter Olympics in Vancouver, British Columbia will increase border crossing in the Cascadia gateway predictably; the CBP Port Director at Blaine should have the authority to initiate discussions with peers to “borrow” inspectors for a surge in demand from ports without a concurrent surge in traffic—for example, from Miami, or Baltimore.

The development of regular communication and capacity for resource shifting among CBP port directors would also foster the migration of best practice ideas and information on the performance of pilot projects more quickly across the country.

- Some of the most innovative ideas for improving the northern border, such as NEXIS, Enhanced Driver Licenses and FAST began as pilot projects at the local level. To encourage creative innovation, Congress should authorize funds for a **Border Security Pilot Project Challenge Fund** that would provide grants to match contributions from state and local governments as well as contributions by business and NGOs to finance DHS-approved pilot projects intended to test new ideas. Grant recipients would be required to write up the pilot project in detail to foster imitation of best practice and/or the replication of the pilot program for the entire border.

At present, border stakeholders with ideas for pilot projects must lobby Congress to approve and fund them, often over the objections of DHS. A permanent grant mechanism for future pilot project would encourage innovation. An important pilot project that has been strongly supported by Rep. Louise Slaughter (D-NY) and Rep. John McHugh (R-NY and President Obama’s nominee for Secretary of the Army) is known as Shared Border Management, and it would be an excellent candidate for the initial pilot project challenge grant. This project would allow for U.S. CBP officers to conduct inspections on the Canadian side of the Peace Bridge in Fort Erie, Ontario and for Canadian Border Services Agency officers to conduct inspections in Alexandria Bay, New York. In both cases, space restrictions make the efficient inspection of cargo on one side of the border difficult and local border stakeholders have sought to emulate the Container Security Initiative and airport pre-clearance programs that allow for inspections on the territory of the other country. There are concerns about the potential and practicality of such inspections as well as concerns over national sovereignty implications, but a pilot project would provide some practical experience that could be evaluated by proponents and critics alike.

Building a Truly New Frontier: Finally, in all regions, among all user types, and in the long history of the shared border between the United States and Canada, the greatest progress has been made when there is a consensus about the future of the border and how it should be managed. The clearest example of this was the Smart Border Declaration and Action Plan that followed September 11, 2001. The Security and Prosperity Partnership that replaced the Smart Border Declaration and Action Plan was a sincere and creative effort, but struggled to address border concerns. Some observers have argued that this was because of the inclusion of Mexico in the SPP, given the different nature of the problems on the U.S.-Mexican border. Yet it was the absence of any role for the majority of border community stakeholders in the SPP process that had a greater impact, including those in communities along border corridors, and in user groups that are difficult to reach.

To promote consensus, Congress and the administration (including DHS) should work to develop mechanisms that remain open to the flow of ideas 'from the bottom up.'

In the *Blueprint for American Prosperity*, Brookings scholars noted that it is important for the federal government to lead where governments at other levels will not, but it must empower state and local government to act as well. It can do so for border issues by fostering the development of a new frontier consensus that points toward a widely-shared vision of the northern border that all stakeholders can work to realize. That empowerment will help clear the underbrush of region- and user-specific inhibiting a broader dialogue and modernization.

DHS Secretary Janet Napolitano has taken an important step in the direction of fostering such a dialogue by indicating a willingness to study a perimeter approach to border security, and what it would take for the United States to implement such a strategy. In 2001 following the September 11 attacks, the Bush administration proposed to the Canadian government of Prime Minister Jean Chrétien that given the chronic U.S. under-investment in infrastructure and personnel at the northern border, the United States and Canada might consider which types of inspection could be conducted away from the border at the perimeter of the continent, from shipping containers inspected before departing from a foreign port for the United States and Canada to individual travelers who could be screened before being permitted to leave for a North American airport or seaport. The Chrétien government declined the suggestion, indicating that Canadians would not support the harmonization of immigration policies, intelligence collection, and

related policies that would be necessary to make a perimeter security strategy viable. In 2006, the Harper government offered to reconsider a perimeter security strategy, but by then it was clear that it would be necessary to wait for the new Obama administration to make progress on this idea.

Secretary Napolitano has indicated publically her willingness to explore this possibility with her Canadian counterpart, but progress won't come easily. The past several years have seen the U.S. presence on the northern border strengthened by new infrastructure and personnel. This investment in the northern border, which Canadians refer to as the "thickening of the border" will not be lightly abandoned by the United States. All the more important then is achieving consensus among U.S. and Canadian border stakeholders that the perimeter is indeed the appropriate place for certain inspections and would provide as much security (or more) as afforded by today's northern border strategy. The Obama administration has begun exploring the perimeter strategy, but it will need to cultivate a consensus in order to convince Congress and the American people that this is a desirable vision for the future.

Among think tanks and academic specialists, another popular suggestion for the border is to permit labor mobility across the northern border without altering citizenship. Under such a system, American workers would gain the right to seek permanent or temporary employment in Canada, and professionals providing business, medical or other services would have the right to cross the border to seek business or perform contracted services—and in exchange, Canadians would gain reciprocal access to the United States.

In Europe, the Schengen Treaty provides a model of similar labor mobility rights for citizens of signatory countries of the European Union. In the United States, such a deal with Canada would raise concerns about whether a similar agreement with Mexico might be possible—leading to both enthusiasm for and opposition to a Canadian agreement on the basis of the precedent it might set. The larger debate about migration and the illegal immigrant population in the United States would make the possibility of granting even a limited expansion of labor mobility difficult—such as this paper proposed for spouses of foreign individuals with a legitimate employment status in the United States. The Obama administration may wish to consider the benefits of labor mobility for economic competitiveness and opportunity for American workers, but, as with a perimeter strategy, proceeding on this basis would require a broader consensus among Americans about the desirability of such a change.

As seen from the short historical overview in this paper, presidential and even federal leadership is not the sole source of visionary ideas for the northern border.

To promote consensus, Congress and the administration (including DHS) should work to develop mechanisms that remain open to the flow of ideas “from the bottom up.” Input from northern border stakeholders gathered through the port-specific Smart Border Agenda Committees and evidence from local pilot projects would each provide new ideas, and would the adoption of Total Quality management and Continuous Process Improvement within CBP.

Another potential source of new ideas that could contribute to a New Frontier consensus could be the SPP working groups, or their potentially renamed successors. Although the SPP is flawed, the Obama administration has the opportunity to correct many of these and to build on the strengths of the consultation between peer regulators and policy makers in Canada and Mexico. This is important because for any consensus developed in the United States to succeed—even one that has broad support from northern border stakeholders—the cooperation of the officials on the other side of our land borders is necessary.

The SPP joins NAFTA as a process for promoting closer ties among the North American countries that was built with elite support but in the absence of public or even stakeholder support. Despite evidence that NAFTA has been beneficial on balance to American business, workers, and consumers the agreement remains vilified by many as an unwarranted move to embrace globalization. President Obama recognized this on the campaign trail in 2008, when he called for the renegotiation of NAFTA’s provisions to correct flaws in the original agreement. As a result, the Obama administration will most likely rename the SPP. Yet, it should retain its mechanisms in some form. The challenge will be to avoid the mistakes of previous administrations by making the mechanisms by which North American relations—including border policy—are discussed and coordinated with U.S. neighbors Canada and Mexico more transparent and inclusive.

With all this in mind, the United States should:

■ **Publicly adopt a two-speed approach to North**

America. President Obama should borrow from the lexicon of the European Union and announce that the United States will proceed in negotiations with its two neighbors “at two speeds”, moving ahead more quickly where possible with its developed country neighbor Canada, and allowing Mexico to proceed more slowly as necessary. Agreements with Canada, including initiatives and practices adopted for the northern border, would be crafted with transparency concerning the prerequisites for closer cooperation and coordination. When Mexico and the United States were able to meet the same preconditions in their bilateral relationship, no status offered to Canada or Canadians would be foreclosed to Mexico or Mexicans.

In some ways, this is simply a call for the public recognition of the reality that the United States has

faced in its relations with two different neighbors. As seen with the differences between the U.S.-Canada and the U.S.-Mexico Smart Border Action Plans, different approaches can be managed simultaneously without damage to U.S. interests. And as the sequential evolution of the Canada-U.S. Free trade Agreement to the NAFTA suggests, best practices developed in the U.S.-Canadian relationship can be successfully used as a model for the improvement of U.S.-Mexico relationship and lead to eventual convergence to North America-wide standards and practices when these make sense.

■ **Reform, but do not abandon the SPP.** The Obama administration is likely to want to “press the reset button” on the SPP, an unpopular though valuable initiative that has improved policy coordination between the United States and its neighbors. The benefits of the SPP could be seen in the coordination among public health officials in the three countries in response to the H1N1 swine flu outbreak, and in the improvement in the food safety efforts of all three countries that followed the salmonella outbreak affecting tomatoes in the summer of 2008 when compared to the response to the bovine spongiform encephalitis (BSE) incidents among cattle—the so-called “mad cow” episode of 2006. But the SPP must be rebranded to win any kind of consensus support. The Obama administration recognizes this, and could take a few tactical steps to make the SPP (or its eventual successor) work better and win broader support.

First, open the SPP process to civil society. The original SPP design was for working groups among officials with Congress and private sector groups shut out and unable to find out what was being discussed. At the second North American leaders’ meeting in Cancún, business groups lobbied for and won the right to participate in the SPP process through the creations of a North American Competitiveness Council (NACC). The NACC was organized into three national sections each of which selected its own executive committee. The NACC could propose issues for discussion by the working groups, request briefings by their compatriot co-chairs of particular working groups, meet with compatriot cabinet secretaries or ministers guiding the process and briefing the leaders, score the process publicly, and attend the North American leaders’ meetings to offer their views on progress or problems. The NACC had no control over the process, but it was privileged over other private groups.

The Obama administration should offer NACC-equivalent status to the environmental, labor and human rights groups that have been among the strongest critics of the SPP, and yet have sought access rather than to condemn the effort. The two institutions established through side agreements to NAFTA by the



Clinton administration should be used to coordinate the participation of civil society groups: the North American Commission on Environmental Cooperation in Montreal would convene environmental groups in three national sections and the North American Commission on Labor Cooperation in Washington would convene labor and human rights groups in the same manner. The participation and technical expertise of these civil society groups could inform the deliberations of the working groups, and help to improve regulation and inspections by raising standards to a common, high level across North America.

Second, the Obama administration should recognize that since the state and provincial governments of the United States, Mexico and Canada have constitutional responsibility over some areas of regulation and governance that affect the economy and the border, it makes sense to bring subnational governments into the SPP. Governors (and in Canada, premiers) could be asked to form working groups on the SPP or its successor on the NACC model but with greater authority to intervene and participate where their powers are specifically under discussion in an SPP working group. In the United States, the National Governors Association could help to organize a working group to observe the SPP.

■ **Form a US-Canada or North American Joint Infrastructure Planning Commission.** In 1909, the United States and Canada formed an International Joint Commission (IJC) to study border problems. The IJC was composed of three Canadian and three American

members and did not have regulatory authority. Instead, the IJC was set up to advise the governments in response to specific references issued by the federal governments in concurrence on technical and scientific issues related to the condition of the northern border and the border environment. Based on IJC findings, the governments of the United States and Canada can act, or choose not to act. However, the IJC holds hearings, invites stakeholder comment and testimony, and raises awareness on issues with the public helping to prepare the way for government action.

The Obama administration, the Canadian government, and possibly the Calderón administration should form a similarly structured international commission to study infrastructure needs at the land borders, and along the border corridors that link the two borders together. Engineering studies, preliminary environmental impact assessments, and transportation and infrastructure (including energy infrastructure) plans could be generated by such a commission to foster consensus among the many federal, state/provincial, and local governments that need to coordinate actions to design, build and maintain shared (or interconnected) infrastructure vital to the economy and to regional competitiveness with Europe and Asia. By studying technical issues at the request of the federal governments, a joint infrastructure planning commission would prepare the way for the necessary consensus behind multi-year, multi-billion dollar infrastructure projects critical to our economic future. ■

Conclusions

It will not be easy to build a consensus on the future of the U.S.-Canadian border that will satisfy stakeholders in all four regional gateways and all five categories of border crossers. It will take time, resources are limited, and the stakes are indeed high. But the first step will be to initiate meetings with community leaders, and stakeholder groups.

President Obama should not rely solely on his ability to convene and persuade northern border stakeholders and Canadians to work toward his vision of a new frontier. The diversity of the northern border and its political fragmentation have frustrated U.S. policy makers in the past with the result that the default condition of U.S. policy toward the border has been neglect accompanied by low-level grumbling by northern border users and borderlands communities. Canadians have often resisted U.S. leadership and initiatives, such as the entry-exit controls proposed under the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, with which they disagree. Only by listening to northern border stakeholders, and incorporating their feedback into day-to-day management and eventually a consensus vision for a new frontier with Canada, can the Obama administration win over Canadians by first persuading Americans to support reform or northern border policies and procedures, infrastructure and investments.

The post-2001 reforms to the northern border had their origin, in part, in stakeholder consultations that followed the immigration legislation passed by Congress in 1986 and 1996. Stakeholder input made these changes more successful. Yet the creation of the Department of Homeland Security had the unfortunate result of reducing the ability of U.S. Customs port directors to manage operations in a manner adapted to local needs. The institutional knowledge and the organizational capacity to think and reflect and adapt policies that was lost in the shift to DHS must be restored in some manner through greater decentralization of key decisions within DHS and more institutionalized consultation with stakeholders.

Problems on the northern border affect millions of Americans in border states and along the corridors that run along the East and West Coasts and through the American heartland. The southern border is vital as well; yet as in the past, the northern border has a unique capacity to become a 5,000-mile long laboratory for reform, where the United States can innovate and foster new opportunities for growth and prosperity.

That is the challenge: to build a truly “new frontier” on

the northern border that can be a model to others and an advantage for all Americans. President Obama’s community organizing experience suits him well for the task ahead: better organizing the communities of northern border stakeholders in the Cascadian, Great Lakes, Rural and Perimeter gateways and along their respective border corridors; better organizing the user groups to participate in northern border policymaking rather than merely registering complaints, from commercial users to energy users to commuters and amateur crossers; better organizing the U.S. federal government to manage northern border policy by decentralizing and making DHS operations more flexible, and fostering communication and coordination across the U.S. federal government on border related issues through a revamped version of the SPP; and better organizing American federalism when it comes to border issues by effectively leading and linking the activities of federal, state, metropolitan and local governments. ■



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