

CANADA AND 9/11: BORDER SECURITY IN A NEW ERA

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ABSTRACT

In the immediate aftermath of the terrorist attacks of September 11, 2001 (9/11), Canada began the process of adjusting to the new security realities. It immediately became apparent that a preeminent issue that Canada would have to address was border security, especially the matter of maintaining a secure and open border with the United States (US). Canada has always recognized the necessity of an open border with the US but 9/11 reinforced just how vulnerable the border was to events beyond its control. Something needed to be done in order to sustain this vital trading relationship.

This thesis examines Canada's response to the terrorist attacks of 9/11 but more specifically, Canada's efforts to maintain an open and secure border with the US in the immediate months and years following the attacks. This thesis is a case study of Canada's political efforts in that regard. The central focus is on Canada's initiation, negotiation and signing of the Smart Border Declaration (*SBD*) with the US on December 12, 2001. The purpose here is to examine the driving factors that lead Canada to engage in the smart borders process with the US and assess the importance of them.

This thesis concludes that Canada's response to the border crisis has revealed three significant trends in Canada's foreign and security policy. First, the *SBD* serves as a demonstration that Canada's national security has been significantly influenced by the security of economics and in particular, the special trade relationship that exists between Canada and the US. Secondly, the *SBD* is a familiar case of Canada taking the initiative in a North American policy matter and achieving an impressive policy triumph. Thirdly, it shows that the *SBD* represented an equally familiar instance of Canada taking action to provide certain assurances to the US that the security of Canada and the US is indivisible. In essence, it was a significant effort to appear as a reliable and responsible neighbour to the US.

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To my family, both immediate and extended, almost no words can express the love and appreciation I feel towards all of you for all the love and support you have shown me over the years. Most especially to my Mom and Dad, this thesis and all of my prior educational and life accomplishments could not have happened if it was not for you. You showed me what truly matters in life and you provided the right kind of support and advice at the most appropriate moments along the way. You were always there for me. Thank you so very much.

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Michel Carpentier, 2007.

DEDICATION

**This thesis is dedicated to the victims of that fateful day of September 11, 2001.
May Canadians never forget.**

LIST OF ABBREVIATIONS

AWPPA – Canada’s 1970 Arctic Waters Pollution Prevention Act
BIF – Border Infrastructure Fund
BTF – Borders Task Force
BVI – Border Vision Initiative
CBC – Canadian Broadcasting Corporation
CBP – US Customs and Border Protection
CBSA – Canada Border Services Agency
CDRP – Commercial Driver Registration Program
CIC – Citizenship and Immigration Canada
CSA – Customs Self-Assessment Program
CSIS – Canadian Security and Intelligence Service
CUSP - Canada-US Partnership Forum
DFAIT – Department of Foreign Affairs and International Trade
DHS – US Department of Homeland Security
DND – Department of National Defence
FAST – Free and Secure Trade Program
FLQ - Front de Libération du Québec
GATT - General Agreement on Tariffs and Trade
IBET – Integrated Border Enforcement Teams
ICJ – International Court of Justice
IMET – Integrated Marine Enforcement Teams
IMF – International Monetary Fund
INS – US Immigration and Naturalization Service – As of March 1, 2003, it is referred to as the US Citizenship and Immigration Services under the jurisdiction of the DHS.
MP – Canadian Member of Parliament
NAFTA – North American Free Trade Agreement
NATO – North Atlantic Treaty Organization
NDP – New Democratic Party of Canada
OECD - Organization for Economic Co-operation and Development
PCO – Privy Council Office
PSEPC – Public Safety and Emergency Preparedness Canada
RCMP – Royal Canadian Mounted Police
SBA – Canada-US Accord on Our Shared Border (Shared Border Accord)
SBD – Smart Border Declaration
SPP – Security and Prosperity Partnership of North America
UN – United Nations
UNSC – United Nations Security Council
US – United States
WHTI – Western Hemisphere Travel Initiative

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Introduction

In the new global era, governments everywhere are faced with new threats to their security due to environmental degradation, biological and chemical weapons, international crime and smuggling, and not least, terrorism. The terrorist attacks on New York and Washington on September 11, 2001 (9/11) marked the beginning of a new era for the western world, in which security was dramatically redefined. Suddenly the threat was not from another country but the omnipresent possibility of an attack from anywhere, including from within one's borders.

The thesis explores the Canadian response to 9/11 as a case study revealing the particular approach taken by Canada in addressing questions of national security relating to North America. It argues that 9/11, while constituting an extraordinary event that redefined the security threat for Canada, as for other western nations, brought forward familiar challenges for Canada in dealing with the US and resulted in policies that were in line with traditional notions of security embraced by Canadians. It shows that the central feature of Canada's response to 9/11 was a focus on the security of the Canada-US border, the primary policy response being an agreement negotiated with the US known as the *Smart Border Declaration* (See Appendix 1 for the text of the *SBD*), signed on December 12, 2001. The thesis explores how the Canadian initiatives around the *SBD* brought to light three distinct characteristics of Canadian security policy: a tendency to define security largely in economic terms; a recognition of the prudence of taking the initiative on Canada-US security issues instead of reacting afterward to the declared position of the US; and the predisposition to be a responsible and reliable neighbour to the US.

Some critics of Canada's response to 9/11 have argued that the Canadian contribution was inadequate, resulting in a further decline in Canada's position on the international stage. Others charge that Canada failed to utilize its traditional approach to international peace and security of working through multilateral institutions. Still others contend that Canada acted as it did solely to appease the US.¹ The thesis takes a different approach by exploring the impact of 9/11 on Canada from the standpoint of security and by exploring the security relationship between Canada and the US in particular. It is indeed true that in the case of 9/11 Canada was largely unable to take its traditional approach of attempting to utilize international multilateral institutions to deal with international crises. The reason is that this option was not available. A different, but familiar, solution was needed to address this new threat—an approach that focused on the interdependent yet asymmetrical economic and political relationship between Canada and the US. Canada's response was not taken to appease the US. Instead, the overall purpose was to ensure economic stability in Canada and help maintain and guarantee the security of Canadians, defined in economic and political terms. This was the preeminent concern.

This thesis focuses on how and why Canada responded to 9/11 mainly by trying to maintain a secure and open border with the US. It does not explore whether this was an example of continental integration, nor whether the *SBD* is the harbinger of further North American integration. These are subject areas that deserve studies of their own. Nor will any connection be drawn between post 9/11 Canada-US border issues and recent issues in Canada-US relations that have received considerable public attention, such as

¹ For the most critical literature see Kent Roach, September 11: consequences for Canada, (Montreal: McGill-Queen's University Press, 2003), 136-142, Stephen Clarkson, Uncle Sam and Us: Globalization, Neo-conservatism, and the Canadian State, (Toronto: University of Toronto Press, 2002), and Mel Hurtig, The Vanishing Country: Is it Too Late to Save Canada?, (Toronto: McClelland & Stewart Ltd., 2002).

the NAFTA trade disputes over softwood lumber, the BSE crisis, Canada's refusal to support the US-led war in Iraq or the US missile defence plan, or the effect the Western Hemisphere Travel Initiative (WHTI) has had on Canada-US relations.²

While there is a significant focus in the existing literature on Canada's response to 9/11 focused on such matters as the enactment of anti-terrorism and immigration legislation, there are few sources that provide a comprehensive analysis of how and why Canada placed primary importance on the border security issue. Only now, six years after the attacks, are academics beginning to give further study to this aspect of Canada's response to 9/11.³ There are few secondary analyses of the 9/11 border security crisis, only cursory references in various academic pieces. Those that exist attempt to place the border crisis in the broader context of contemporary challenges related to Canada's foreign policy or in terms of Canada-US relations.

One of the most important sources for the thesis is Peter Andreas and Thomas J. Biersteker's *The Rebordering of North America: Integration and Exclusion in a New Security Context*, which offers a comprehensive discussion of how Canada, the US, and Mexico responded to 9/11 at their shared borders. The book's main argument, which permeates many of the chapters, is that North American relations often can be driven by the politics of border security. The contributors set out to demonstrate that each of the

² The WHTI is being implemented following the passage of the Intelligence Reform and Terrorism Prevention Act in the US in 2004. As of January 23, 2007, all air travelers entering the US from Canada, Mexico, the Caribbean and Bermuda are required to present a valid passport. A deadline of January 1, 2008 has been set for the same requirements of land and sea travelers. Canada and several US politicians are currently seeking a delay for this second deadline.

³ The most current and appropriate sources that have been written are Joel J. Sokolsky, "Northern Exposure? American Homeland Security and Canada," *International Journal* 60 (1) (Winter 2004-2005), 35-52. Reg Whitaker, "Securing the "Ontario-Vermont Border": Myths and Realities in Post-9/11 Canadian-American Security Relations," *International Journal* 60 (1) (Winter 2004-2005), 53-70. Peter Andreas, "The Mexicanization of the US-Canada Border: Asymmetric Interdependence in a Changing Security Context," *International Journal*, 60 (2) (Spring 2005), 449-462. James D. Phillips, "Improving Border Management," *International Journal*, 60 (2) (Spring 2005), 407-415.

three countries took a different approach to border security following 9/11. One of their conclusions is that in the post 9/11 era borders show no signs of vanishing as many globalization theorists have argued. Instead, since 9/11 border issues have become highly politicized and in particular Canada-US border relations have been given considerable political and public attention.

In one of the more interesting chapters from the standpoint of the thesis, Stephen Clarkson argues that “the Government of Canada actually set the bilateral agenda on these border issues because it had done its homework before 9/11 and because it was institutionally more nimble than the US government. For years Canada had been urging Washington to undertake joint measures that would improve border security and increase border efficiency.”⁴ The conclusion that can be drawn from the Andreas and Biersteker book is that 9/11 seems to have established the policy environment where the US was receptive to the expressed public and economic security concerns of Canada.

Another important article in the literature for the purpose of the thesis is Christopher Waddell’s “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September,”⁵ which outlines Canada’s role in the negotiations and signing of the *SBD*. Waddell argues that security and economic concerns were intrinsically linked for Canada following 9/11 but for the US that was not necessarily the case. The US response focused strictly on security and Canada had to make the case to the US of the importance of possible economic consequences of a restricted flow of goods at the border. Canada

⁴ Stephen Clarkson, “The View From the Attic: Toward a Gated Continental Community?,” *The Rebordering of North America: Integration and Exclusion in a New Security Context*, eds. Peter Andreas and Thomas J. Biersteker (New York: Routledge, 2003), 81.

⁵ Christopher Waddell, “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September,” *Canada Among Nations 2003: Coping With the American Colossus*, eds. David Carment, Fen Hampson and Norman Hillmer. (Oxford: Oxford University Press, 2003), 54-76.

successfully took a pragmatic approach—addressing common security and border issues with the US.

Veronica Kitchen also provides an analysis of the *SBD* process and argues that Canada was able to come up with a creative way of managing cooperation with the United States.⁶ As a small economy, Canada relies on keeping its border open for trade with the world and most importantly with the US. The *SBD*, and the negotiations surrounding it, was Canada's attempt to secure the nation's economic interests. The agreement also permitted Canada to achieve effective cooperation with the US while stopping short of embracing continental integration.

Finally, Jennifer Welsh, in *At Home in the World: Canada's Global Vision for the 21st Century*, provides a brief examination of Canada's role in initiating the *SBD* discussions and drafting the agreement. Welsh makes important observations about the key role played by Canada's Foreign Affairs Minister, John Manley, and US Director of the Department of Homeland Security, Tom Ridge, in the *SBD* process. She gives weight to the argument advanced in the thesis that Canada, and not the US, took the initiative on the *SBD*, to Canada's considerable advantage.⁷

The above secondary sources are significant to the thesis for three reasons. First, they demonstrate that economic issues were a preeminent concern for Canada post 9/11. Second, they demonstrate that Canada was successful in making the case to the US that public security and economics are intrinsically linked and that neither country could afford the economic consequences of a restricted flow of goods at the border. And third,

⁶ Veronica Kitchen, "Smarter Cooperation in Canada-US Relations?" *International Journal* (Summer 2004): 695-696.

⁷ Jennifer Welsh, *At Home in the World: Canada's Global Vision for the 21st Century*, (Toronto: HarperCollins Publishers Ltd., 2004), 58-60.

they highlight how Canada took a proactive role in addressing border security issues with the US Administration. In other words, Canada was acting according to its own preoccupations rather than simply conforming to the preferences of the United States. But these authors only scratch the surface in the course of drawing attention to Canada's post 9/11 focus on the border relationship. This thesis conducts a careful analysis of what the Canadian preoccupation with border security tells us about the particular approach that Canadians take to North American security questions.

A valuable government source for the thesis is a report that the House of Commons Standing Committee on Foreign Affairs and International Trade presented to Parliament on November 30, 2001, entitled *Towards a Secure and Trade Efficient Border*. This Report highlighted the urgent issue of restricted trade flows at the land border and made specific recommendations to the Liberal government of Prime Minister Jean Chretien. It was one of the first government documents that emphasized the central need to address various security concerns entailed by the prospect of a restricted flow of goods and services at the border in the aftermath of 9/11.

Other government documents provide invaluable factual information regarding the creation and role of the Canada Border Services Agency (CBSA), the Department of Public Safety and Emergency Preparedness of Canada (PSEPC), and the implementation of various *SBD* Action Plan programs such as the Free and Secure Trade Program (FAST), NEXUS, and CANPASS.⁸

⁸ For example, see Canada, Government of Canada, Canada Border Services Agency, "Cross Often? Make it Simple. Use NEXUS," available at, <http://www.cbsa-asfc.gc.ca/travel/nexus/menu-e.html>, (Accessed 24 November 2004); Canada, Government of Canada, Canada Border Services Agency, "About CANPASS: Streamlines Customs Clearance for Frequent Travelers," available at, <http://www.cbsa-asfc.gc.ca/travel/canpass/menu-e.html>, (Accessed 24 November 2004); and Canada, Government of Canada, Canada Border Services Agency, "The Free and Secure Trade Program," available at, <http://www.cbsa-asfc.gc.ca/fast/>, (Accessed 24 November 2004).

There are also a number of government publications that shed light on the evolution of Canada-US border security cooperation since the early 1990s. The most relevant include the 1995 Canada-US Accord on Our Shared Border, the 1997 Border Vision Initiative, the 1997 Cross Border Crime Forum, and the 1999 Canada-US Partnership Forum (CUSP). These earlier border agreements formed the basis of Canada-US border cooperation post 9/11.

This thesis focuses, in particular, on the *SBD*, which was signed between Canada and the US on December 12, 2001. The *SBD* proceeded from the critical underlying premise that in the new security environment, public security and economic security were mutually reinforcing. The *SBD* identified four “pillars” or goals of cooperation between Canada and the US: 1) the secure flow of people; 2) the secure flow of goods; 3) secure infrastructure; and 4) coordination and information sharing in the enforcement of these objectives.⁹ The agreement committed both governments to an unprecedented degree of inter-agency cooperation.

The government documents cited above are relevant to the thesis for three reasons. First, they bear evidence that border security was a high priority for Canada following 9/11. Canada immediately recognized the possible economic consequences of not addressing border security and devoted significant government resources to the issue. Second, these documents trace the development, at the policy level, of the implementation of the *SBD*. Finally, they make it clear that Canada was committed to addressing border issues within the context of Canada’s broader security policy. These

⁹ Canada, Government of Canada, Department of Foreign Affairs and International Trade, *Smart Border Declaration*, (Ottawa: available at, http://www.dfait.gc.ca/can-am/main/border/smart_border_declaration-en.asp)

documents reinforce the notion that Canada was committed above all to the security of North America.

The thesis examines Canada's response to 9/11 as a case study. This is a traditional approach to studying international relations and the actions of states in the international system. As Don Munton and John Kirton have argued, a case study provides, first, a reasonably comprehensive description of a major decision or set of decisions, and second, an analysis of the major factors and motivations which led the state to act as it did:

A case can convey a sense of the full historical context in which a particular event occurred. It provides the necessary detail about both key actions and antecedents that are necessary if students are to connect causes to effects and assess competing explanations, and begin the task of evaluating or constructing more general theories of foreign policy behaviour. And, because the case study method permits the analyst to recreate the world of the decision maker at the time, it facilitates the consideration of the costs and benefits of alternative-existing and imagined-policy choices.¹⁰

The case study method can be easily adopted for an analysis of Canada's response to the events of 9/11. It is effective in analyzing what the Canadian government actually did, or decided to do, in the four years following 9/11 with the issues at hand and it clearly demonstrates that Canada's position was rooted in Canada's distinctive approach to security issues.

¹⁰ Don Munton and John Kirton, Canadian Foreign Policy: Selected Cases, (Scarborough: Prentice-Hall Canada Inc., 1992), vi.

Chapter 1

Canada and September 11, 2001: Border Security

1.1 Introduction

In the immediate aftermath of the terrorist attacks of 9/11, Canada began the process of adjusting to the new security environment. It soon became apparent that as a consequence of 9/11, Canada would have to address the issue of border security with the US, predominantly for economic reasons. In the days following the attacks, the thirty-plus mile line up of vehicles at some border crossings, consisting mostly of trade-related vehicles, made Canadians realize the severity of the issue. Also, the crossing times for trucks increased from 1-2 minutes to 10-15 hours.¹¹ It was apparent to Ottawa, because of the drastic US response, which included the tightening of border controls and the toughening of the policy discourse about borders and cross-border flows that Canada needed to act.¹²

The imminent border crisis created a sudden sense of insecurity among Canadians, defined in economic terms.¹³ The Canadian government was extremely concerned that the high security alert at the border would have irreparable consequences for the Canadian economy. Canadians had always recognized the necessity of an open border with the US, but they now realized how vulnerable the border was to disrupted trade flows in times of crisis. Action was necessary to restore and preserve this critically important trading relationship.

¹¹ Peter Andreas, "The Tale of Two Borders: The US-Canada and US-Mexico Lines After 9/11," The Rebordering of North America: Integration and Exclusion in a New Security Context, eds. Peter Andreas and Thomas J. Biersteker (New York: Routledge, 2003), 2. Also see Figure 1.

¹² Andreas, "The Tale of Two Borders", 2.

¹³ Auditor General of Canada, Office of the Auditor General of Canada, "Chapter 3: National Security in Canada – The 2001 Anti-terrorism Initiative," March 2004 Report of the Auditor General of Canada to the House of Commons, 3.

Figure 1: Border delays following 9/11



The day after the attacks, trucks were backed up 27 kilometres from the U.S. border on Highway 402 at Reeces Corners, southern Ontario. Heightened security checks slowed cross-border traffic to a trickle.

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This thesis argues that Canada addressed the issue of border security in a way that fit with its long-standing approach to domestic and continental security in the context of the requirements of Canada’s economic and political relationship with the US. The *SBD* built upon existing agreements between the two countries that were initiated prior to 9/11 — agreements that recognized that the economic dimensions of the border relationship were of critical importance. In other words, the decision to establish a “smarter” border was a necessary but incremental policy decision for both countries. But Canadian leaders, who worried that the US would now view border issues as related primarily to security rather than economics, took the initiative in drafting the *SBD* text to try and ensure that the Canadian view prevailed.

This chapter is divided into four sections. The first section examines some of the broader elements of Canada’s response to 9/11 in order to set out the context within

¹⁴ “Tragedy will bring our two countries closer: Interview with Michael Kergin, Canada’s Ambassador in Washington.” *Canada World View*, 14 (Winter 2003), available at, <http://www.dfait-maeci.gc.ca/canada-magazine/issue14/14t6-en.asp>. (Accessed 11 September 2007).

which border security was addressed. The second section briefly examines the extensive nature of Canada-US trade relations and then explores Canada's immediate response to the border crisis. The third section tracks the establishment of the Borders Task Force (BTF), created as a result of decisions reached in the Privy Council Office (PCO), which was ultimately responsible for the negotiations leading to the *SBD*. And the fourth section provides an in-depth examination of the *SBD* and the progress made to date.

1.2 Canada's Domestic and International Response to 9/11

One of the first actions taken by the Canadian government in response to 9/11 and the immediate crisis was to establish new structures within government. An ad hoc Cabinet Committee on Public Security and Anti-Terrorism was created before the end of September 2001, chaired by Minister of Foreign Affairs, John Manley. This committee was responsible for reviewing policies, legislation, regulations, and programs across the Government in order to strengthen all aspects of Canada's response to the terrorist attacks.¹⁵ It provided advice to the Prime Minister and Cabinet and remained active in discussing national security issues and providing general policy direction. Despite the committee's high-level status, any program or policy decisions that needed to be made were still to be referred to standing committees of the House of Commons. This ad hoc committee would eventually be replaced by the Cabinet Committee on Security, Public Health, and Emergencies, which was responsible for managing national security, intelligence issues and activities, and government-wide responses to public health, national disasters, and security emergencies.¹⁶

¹⁵ "After September 11," *The Globe and Mail: Series*, available at, <http://www.theglobeandmail.com/series/borders/911.html>, (Accessed 11 September 2007).

¹⁶ Auditor General of Canada, *March 2004 Report of the Auditor General of Canada to the House of Commons*, 3-4.

These committees of Cabinet were the first of their kind to be established by the Canadian government since the October 1970 FLQ crisis when Prime Minister Pierre Trudeau established a Cabinet Committee on Security and Intelligence to address the grave security crisis. Since that time issues of security and intelligence had been addressed at a level below the cabinet.¹⁷

Further changes to government structures would be made in the next two years, including the establishment in 2004 of a new government department, known as the Department of Public Safety and Emergency Preparedness Canada (PSEPC). PSEPC took control of the Office of Critical Infrastructure Protection and Emergency Preparedness, which was transferred from the Department of National Defence (DND). Its main responsibility was to provide policy leadership and deliver programs and services in the areas of national security and emergency management, policing, law enforcement and borders, corrections, and crime prevention. It would oversee Canada's key domestic security agencies, the Royal Canadian Mounted Police (RCMP), the Canadian Security Intelligence Service (CSIS), the Correctional Service of Canada, the National Parole Board, the Canada Firearms Centre, and a number of other agencies.¹⁸

One of these was the Canada Border Services Agency (CBSA), established in December 2003 with responsibility for ensuring the twin goals of public safety and economic security were maintained at the border. The CBSA is comprised of the Customs Branch of the Canada Customs and Revenue Agency, the intelligence and enforcement sections from Citizenship and Immigration Canada (CIC), and the border

¹⁷ Canada, Senate of Canada, Canada's Coastline: The Longest Under-Defended Borders in the World, A Report of the Standing Committee on National Security and Defence," Volume 1, Second Session Thirty-Seventh Parliament (October 2003), 114.

¹⁸ Canada, Government of Canada, Public Safety and Emergency Preparedness Canada, "Who We Are," available at, <http://www.psepc-sppcc.gc.ca/abt/www/index-en.asp>, (Accessed 11 September 2007).

inspection function of food, plant, and animal health from the Canadian Food Inspection Agency. Most importantly, the CSBA is the main government agency responsible for implementing the *SBD*. To this end, it operates on a model of risk management to expedite the flow of low-risk people and goods in order to focus efforts and resources on high-risk travelers and commercial traffic more effectively.¹⁹

In order to address the concerns of Canadians and to better coordinate the government's response to 9/11, the Government of Canada released a budget in December 2001 that drastically changed the government's immediate and long-term spending priorities. The 2001 budget was dubbed the "Security Budget" upon its release. In total, it devoted \$7.7 billion over five years to security and enforcement initiatives. Of this, \$1 billion was allocated to immigration screening and enforcement, \$1.6 billion to intelligence and policing, \$1.6 billion to emergency preparedness and military deployment, \$2.2 billion to aviation safety, and \$1.2 billion to border security measures.²⁰

On the international stage, Canada also committed itself to the international campaign against terrorism. It reaffirmed its support for North Atlantic Treaty Organization's (NATO) enactment of Article 5 of the North Atlantic Treaty, which states that an act of aggression against a member state of NATO shall be considered an act of aggression against all. Following this, all NATO allies agreed to eight specific measures that could be taken at the request of the US. These measures included "enhanced intelligence sharing, increased security of facilities in NATO countries, assistance to support the fight against terrorism, backfilling of select NATO assets, overflight

¹⁹ Canada, Government of Canada, Public Safety and Emergency Preparedness Canada, "CBSA," available at, <http://www.cbsa-asfc.gc.ca/menu-eng.html>, (Accessed 11 September 2007).

²⁰ Reg Whitaker, "More or Less Than Meets the Eye? The New National Security Agenda," How Ottawa Spends 2003-2004: Regime Change and Policy Shift, ed. G. Bruce Doern (Oxford: Oxford University Press, 2003), 47.

clearance and access for the US and other allies to ports and airfields on the territory of other NATO nations for operations against terrorism.”²¹

Canada also contributed to the US-led military campaign against terrorism in Afghanistan. It established Operation *APOLLO* in support of the US-led mission Operation *ENDURING FREEDOM*. Operation *APOLLO* was the first Canadian combat mission since the Korean War and lasted from October 2001 to October 2003. By mid-October of 2001, Canada had deployed over 2,000 CF members to the region and Canada’s naval ships were the first Canadian units to participate in the campaign. The Canadian ships participated in force-protection operations, fleet-support operations, leadership interdiction operations, and maritime interdiction operations.²²

Canada also committed itself to support any actions taken by the United Nations (UN) and the other multilateral efforts that nations agreed to undertake. Most notably, Canada supported UN Security Council Resolutions (UNSC) 1368 and 1373, which “reaffirmed the right of member nations to individual and collective self-defence and set out the methods by which member states were to root out terrorists and terrorist organizations, and deprive terrorists of the funds and materials necessary to conduct their operations.”²³

²¹ Canada, Government of Canada, Privy Council Office, Former Prime Minister’s Newsroom Archive, “NATO’s Agreement on Article 5,” 5 October 2001, available at, http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=archivechretien&Sub=FactSheets&Doc=natoarticle.20011005_e.htm, (Accessed 11 September 2007).

²² Canada, Government of Canada, Department of National Defence, “Backgrounder: The Canadian Force’s Contribution to the International Campaign Against Terrorism.” Available at, http://www.forces.gc.ca/site/Newsroom/view_news_e.asp?id=490, (Accessed 11 September 2007). Currently there are over 2,500 CF personnel on active duty in Afghanistan as part of Operation *ATHENA* (Canada’s contribution to the International Security Assistance Force) and Operation *ARCHER* (Canada’s contribution to the US-led Operation *ENDURING FREEDOM*).

²³ “Backgrounder: The Canadian Force’s Contribution to the International Campaign Against Terrorism.”

By supporting UNSC Resolution 1373, Canada was required to change its domestic legislation in order to criminalize terrorist acts under national law. UN measures included preventing and suppressing the financing of terrorism, denying safe haven for terrorist entities, prohibiting any other form of support for terrorist activities (such as international movement or the provision of arms), and increasing the rate of exchange of operational information involving terrorism between states.²⁴

In order to fully consent to UNSC Resolutions 1368 and 1373, Canada amended various pieces of domestic legislation and enacted *the Anti-Terrorism Act*, Bill C-36. This Act introduced new measures designed to identify, prosecute, convict, and punish terrorists; to provide new legislative tools for law enforcement and national security agencies; and to ensure that the Canadian values of respect and fairness were preserved through stronger laws against hate crimes and propaganda.²⁵ The Act also provided a definition of terrorism and established a list of terrorist entities, whose activities met the definition of terrorist activity, as "terrorist groups." The Act was in keeping with legislation adopted by other western democratic nations following 9/11. Australia amended its *Security Legislation* and the *Australian Security Intelligence Organization Legislation*, the United Kingdom introduced the *Terrorism Act*, and the US passed the *Patriot Act*. Bill C-36 was given Royal Assent and brought into force in December 2001 under heavy criticism by various civil liberty and minority cultural associations despite

²⁴ United Nations, Security Council Resolution 1373, "Security Council Unanimously Adopts Wide-Ranging Anti-Terrorism Resolutions; Calls for Suppressing Financing, Improving International Cooperation," S/RES/1373 (2001), available at, <http://www.un.org/News/Press/docs/2001/sc7158.doc.htm>, (Accessed 11 September 2007).

²⁵ Canada, Government of Canada, Department of Foreign Affairs and International Trade, "The Campaign Against Terrorism: Backgrounder: Canada's Actions Against Terrorism Since September 11," available at, <http://www.dfait-maeci.gc.ca/anti-terrorism/canadaactions-en.asp>, (Accessed 11 September 2007).

the attempt by the Chretien Government to engage the public in a dialogue about it prior to its introduction.

Canada amended other pieces of legislation in order to better combat domestic and international terrorism. The *Criminal Code* was also amended in order to fall in line with Bill C-36. Other domestic legislation amended included the *Canada Evidence Act* and the *National Defence Act*.

1.3 Border Security Post 9/11

One of the most striking actions taken by Canada following 9/11 was the strong effort to maintain an open and secure border with the US. This was essential to rectifying the personal and economic insecurity felt by many Canadians. More importantly, it reflected the particular emphasis given by Canada in its response to 9/11 to the economic and political dimensions of its security policy.

The extent of Canada's trading relationship with the US, its most important trading partner, is well documented. It is estimated that approximately \$1.9 billion in trade crosses the Canada-US border every day,²⁶ along with approximately 40,000 commercial shipments and 300,000 people. By 2003, 80.8% of Canadian exports were going to the US and Canada's bilateral trade surplus with the US in 2004 stood at \$84.9 billion.²⁷ Canada is also the number one foreign market for goods exports for 39 of the 50

²⁶ Canada, Government of Canada, Department of Foreign Affairs and International Trade, "A Strong Partnership, The Canada-US Trade and Investment Partnership," available at, http://geo.international.gc.ca/can-am/main/trade_and_investment/trade_partnership-en.asp, (Accessed 11 September 2007).

²⁷ Canada, Government of Canada, Department of Foreign Affairs and International Trade, "Fifth Annual Report on Canada's State of Trade," available at, http://www.dfait-maeci.gc.ca/eet/trade/sot_2004/sot_2004-en.asp, (Accessed 11 September 2007). The trade surplus is the amount of goods and services that a country exports that is in excess of the amount of goods and services that it imports.

states, and ranked in the top three for another 8 states.²⁸ The magnitude and potential vulnerability of this relationship was magnified immediately following 9/11. The 30-mile line-ups and heightened state of alert at border crossings drew attention to the importance of the border and its sensitivity to events beyond Canada's control.

In response to the emerging border issue, the House of Commons Standing Committee on Foreign Affairs and International Trade immediately conducted hearings and published a report entitled *Towards a Secure and Trade-Efficient Border*. Published in November 2001, the report outlined nine recommendations for Canada regarding the Canada-US border, including particular measures it believed would be required to ensure an open and secure border with the US.

The Committee highlighted the extensive economic linkages between the two countries and described its work as "imperative in order to signal the urgency of a resolution of border problems to policy-makers" and made a number of suggestions that "...could facilitate trade across the border while ensuring security."²⁹ The most important recommendations called for border issues to be resolved by building upon arrangements and methods established prior to 9/11 and creating a high-level summit of senior US and Canadian political leaders and officials to discuss border management issues. It was envisioned that out of these discussions would come a plan to develop a revitalized bilateral border management plan that would render the cross-border flow of goods and services more efficient.³⁰

²⁸ "A Strong Partnership, The Canada-US Trade and Investment Partnership."

²⁹ Canada, Parliament of Canada, House of Commons Standing Committee on Foreign Affairs and International Trade: Thirteenth Report, Towards a Secure and Trade Efficient Border, (Ottawa: Tabled 30 November 2001), 6.

³⁰ Towards a Secure and Trade Efficient Border, 6.

The Committee also recommended that Canada examine the feasibility of constructing pre-clearance facilities for commercial traffic, reactivating programs such as the Customs Self-Assessment Program (CSA), NEXUS, and CANPASS that had been designed in earlier years to improve border risk management and ease traffic congestion. These programs deserve a brief description.

The concept of the CSA program was in place prior to 9/11 but had never been fully implemented or agreed to by the US. It was implemented in December 2001 with the signing of the *SBD*, permitting Canadian businesses, once pre-screened, to adopt a streamlined accounting and payment process for all imported goods. It also created a streamlined clearance process for eligible goods when an approved carrier and driver are registered with the *Commercial Driver Registration Program (CDRP)*. The CDRP is a program designed to assess the identity and background of carriers and drivers. The streamlined clearance process of the CSA program also allows for the clearance of eligible goods based on the identification and validation of the approved importer, approved carrier, and registered driver.³¹

NEXUS is a border program designed to simplify land border crossing for pre-approved, low-risk travelers. Once applicants to the program are approved, NEXUS members are granted an expedited entry process while traveling across the Canada-US border by land, air, or water.³² The CANPASS Program is designed to streamline customs and immigration clearance for low-risk, pre-screened air travelers. It allows

³¹ Canada, Government of Canada, Department of Public Safety and Emergency Preparedness, Canada Border Services Agency, "Customs Self-Assessment Program," available at, <http://cbsa-asfc.gc.ca/import/csa/menu-e.html>, (Accessed 11 September 2007).

³² Canada, Government of Canada, Department of Public Safety and Emergency Preparedness, Canadian Border Services Agency, "Cross Often? Make it Simple. Use NEXUS," available at, <http://cbsa-asfc.gc.ca/travel/nexus/menu-e.html>, (Accessed 11 September 2007).

participants to pass quickly through Canadian customs and immigration at major Canadian airports.³³

The Government's response to the November 30, 2001 Commons Standing Committee report, prepared by the Department of Foreign Affairs and International Trade (DFAIT), recognized the necessity of acting immediately on the border issues facing both countries. The response affirmed that many of the Committee's recommendations would be addressed with the full implementation of the *SBD* Action Plan and would be supported with the resources allocated to various measures as indicated in the December 2001 and future budgets.³⁴

Given the interdependent yet asymmetrical nature of the trading relationship between Canada and the US, it is evident that a near or complete border closure following 9/11 would have had irreparable consequences for the Canadian and US economies alike. But such a situation would have unquestionably done more damage to the Canadian economy. This economic reality, which will be given full attention in Chapter 2, forced Canadian leaders to respond and resulted in two major initiatives: the creation of the Borders Task Force (BTF) in the Privy Council Office (PCO) and the eventual signing of the *SBD* were the steps Canadian leaders took in order to prevent a severe economic crisis in Canada.

³³ Canada, Government of Canada, Public Safety and Emergency Preparedness Canada, Canada Border Services Agency, "About CANPASS: Streamlines customs clearance for frequent travellers," available at, <http://www.cbsa-asfc.gc.ca/travel/canpass/menu-e.html>, (Accessed 11 September 2007).

³⁴ Canada, Government of Canada, Department of Foreign Affairs and International Trade, Government Response to the Thirteenth Report of the Standing Committee on Foreign Affairs and International Trade. (Ottawa) available at, http://geo.international.gc.ca/can-am/main/border/gov_response-en.asp, (Accessed 11 September 2007).

1.4 The Borders Task Force (BTF)

In response to the Commons Standing Committee report and as a result of considerable pressure from Canadian industry to resolve the border crisis³⁵, Prime Minister Jean Chrétien established the BTF, locating it in the PCO in mid-October 2001. It was charged with coordinating all of the post 9/11 border discussions with the US. Headed by Mr. Graham Flack, the BTF worked with the US embassy in Ottawa on the border file, until the US Department of Homeland Security (DHS) was fully established in November 2001. At this time, the Homeland Security Council of the White House, headed by Richard Falkenrath and in part by Major Chris Hornbarger, assumed control of the smart border discussions.³⁶

The BTF was responsible for advising Deputy Prime Minister John Manley on border issues, coordinating the policy development and implementation efforts of a range of government departments and most notably, liaising with the US Office of Homeland Security in creating “a 21st century border with the US in order to strengthen the security foundation of the border while expediting the flow of low-risk goods and people across it.”³⁷

The staff of the BTF began their work on the assumption that the best that they could accomplish at the border was some form of damage control.³⁸ In an interview with Professor Jennifer Welsh, Flack recalls that “key stakeholders believed the objective was

³⁵ Following the events of 9/11, the Coalition for Secure and Trade-Efficient Borders was formed by over 40 Canadian business associations and individual companies to advise the federal government on how to resolve the border issues. Many of the recommendations from the Coalition’s main report were seemingly adopted in some form in the *SBD*.

³⁶ Mr. Graham Flack was the Director of Operations for the BTF and worked very closely with Major Chris Hornbarger who was the Director for Policy and Plans for the Homeland Security Council. Their immediate superiors were Robert Fonberg (Deputy Secretary to the Cabinet) and Richard Falkenrath (Senior Director for Policy and Plans) respectively.

³⁷ Privy Council Office, *Performance Report for the Period Ending March 31, 2002*.

³⁸ Welsh, *At Home in the World*, 58.

to get as close as possible to the situation that had existed prior to September 10th and to limit the negative impact of the attacks on Canadian jobs and businesses.”³⁹ But, as

Welsh recalls:

what began in a climate of fear and caution evolved into a policy triumph for Canada. What Flack and his team quickly realized was that the US officials had no clear vision of what a post-9/11 border might look like and were therefore receptive to innovative and bold ideas. . . . Proposals that had been tabled in Ottawa well before 9/11 were packaged together in a comprehensive “smart border” strategy.⁴⁰

1.5 The BTF and the Smart Border Declaration

The centerpiece of the “smart border” strategy was the negotiation of an agreement with the US— what would become known as the *Smart Border Declaration (SBD)*. It was still in September 2001 when the BTF began work on a draft document dealing with the border. The goal was to consolidate the principal ideas that had emerged from the border discussions in earlier years between Canada and the US on easing border problems. It soon became apparent to the BTF that “any agreement would have to be modified to address the security concerns of the US.”⁴¹

As Christopher Waddell has observed, the *SBD* came about after two months of “give and take” negotiations between both governments.⁴² The biggest concern for the US was security, while Canada’s most pressing concern was to ensure the free flow of goods into the US market. During the negotiations, the US was able get Canada to agree to biometric identifiers in future personal identification measures. The US also asked

³⁹ Welsh, *At Home in the World*, 59.

⁴⁰ Welsh, *At Home in the World*, 59.

⁴¹ Christopher Waddell, “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September.” *Canada Among Nations 2003: Coping With the American Colossus*, ed. David Carment et al. (Oxford: Oxford University Press, 2003), 61.

⁴² Waddell, “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September,” 61.

Canada to adopt its visa requirements, but the Canadian government only agreed to a joint study of the concept.⁴³

Canada was successful during the *SBD* negotiations in making progress in areas of significant national interest. It was able to have the NEXUS program resumed at the Sarnia-Port Huron-Michigan border crossing and the US agreed to extend the program to other border crossings in the future. It was also successful during these negotiations in getting support for a complementary system for processing commercial goods crossing the border. This was achieved by the creation of the Free and Secure Trade Program (FAST). The FAST program supported moving pre-approved eligible goods across the border quickly and verifying trade compliance before goods reached the border. It is a harmonized commercial process offered to pre-approved importers, carriers, and registered drivers.⁴⁴ Registered trucks are cleared from their point of departure. Transponders in each vehicle then file shipping documents to border officials electronically as the truck approaches the border. The trucks are then waved through reserved or dedicated FAST lanes.⁴⁵ This drastically reduces border wait times for companies trading in the two countries. It should be noted that the FAST program is different than the CSA program discussed above. The CSA program is a Canadian customs program and applies only to Canadian companies dealing with Canada customs. The FAST program is a joint Canada-US program that is recognized by both countries and is being implemented on both sides of the border.

⁴³ Waddell, "Erasing the Line: Rebuilding Economic and Trade Relations after 11 September," 63.

⁴⁴ Canada, Government of Canada, Public Safety and Emergency Preparedness Canada, Canada Border Services Agency, "The Free and Secure Trade Program," available at, <http://www.cbsa-asfc.gc.ca/fast/>, (Accessed 11 September 2007).

⁴⁵ Waddell, "Erasing the Line: Rebuilding Economic and Trade Relations after 11 September," 63.

The FAST program was a breakthrough because prior to 9/11 the US had been reluctant to agree to it. Canada was able to illustrate to the US that better risk-management programs, such as FAST, would allow both governments to focus their resources on identifying and dealing with potential risks rather than spreading their resources too thin.

Perhaps the most telling evidence of the influence that Canada had in the *SBD* negotiations was that when the document was drafted the US made very few changes to it. As Flack recalls, “when [Director of Homeland Security Director Tom] Ridge came to Ottawa . . . we expected the Americans to table significant changes to our draft of the declaration. To our surprise, the draft went through virtually unchanged.”⁴⁶ In essence, it was Canadian ideas and Canadian language that formed the basis for Washington’s first major policy initiative on homeland security after 9/11.⁴⁷

The *SBD* was signed by John Manley, Minister of Foreign Affairs, and Governor Tom Ridge, DHS Director in the US on December 12, 2001. The Declaration included a 30-point Action Plan that was based on four guiding principles.⁴⁸ The text signified that in the new post 9/11 security environment, public safety and economic security initiatives, in terms of Canada-US border relations, would be geared towards obtaining mutually reinforcing objectives.

The first principle of the *SBD* Action Plan, a commitment to ensuring *the secure flow of people* across the border, was supported with some of the following action plan points. Both countries committed to introducing cards for permanent residents that would include a biometric identifier, developing an alternative inspection system for

⁴⁶ Welsh, *At Home in the World*, 59.

⁴⁷ Welsh, *At Home in the World*, 59.

⁴⁸ See Appendix 2 for the full text of the *SBD* Action Plan.

processing pre-approved travelers through the NEXUS program, planning to expand the program to other land border crossings, developing an air pre-clearance program, and developing compatible immigration databases to promote further intelligence coordination.⁴⁹

The second principle of the *SBD* committed both countries to develop programs that would ensure *the free flow of goods* across the border. The Action Plan items under this pillar included the establishment of complementary systems for commercial processing, the development of an integrated approach to improve security and facilitate trade through away-from-the-border processing for trade-related transportation, and a commitment to assess the viability of creating joint border facilities.⁵⁰ Most of these Action Plan points were supported through the implementation of the FAST program.

The third principle of the *SBD* requires the two countries to work together to ensure the *security of border infrastructure* by improving the infrastructure that was currently in place, conducting bi-national threat assessments of trans-border infrastructure, and improving policies and programs related to aviation security.

The fourth guiding principle of the *SBD* committed both governments to *coordinate and share all relevant information related to the enforcement of all the above objectives*. This included expanding the role of the Integrated Border and Marine Enforcement Teams (IBET/IMET); ensuring comprehensive and permanent coordination of law enforcement, anti-terrorism efforts, and information sharing; establishing joint

⁴⁹ Canada, Government of Canada. Department of Foreign Affairs and International Trade, Smart Border Declaration, (Ottawa) available at, [http://geo.international.gc.ca/can-am/main/border/smart border declaration-en.asp](http://geo.international.gc.ca/can-am/main/border/smart_border_declaration-en.asp), (Accessed 11 September 2007).

⁵⁰ *SBD*.

teams to analyze and disseminate information and intelligence; and producing threat and intelligence assessments.⁵¹

In order to facilitate the secure flow of goods between both countries, the *SBD* proposed a series of processes: 1) a system to identify high risk goods while expediting the flow of low risk goods; 2) the identification of security threats arriving from abroad by developing common standards for screening cargo before it arrived in North America while working to clear goods at the first port of entry; 3) the development of compatible security standards at production and distribution facilities to minimize security threats and expedite the flow of low risk traffic between the two countries by establishing compatible commercial processes at the border; and 4) the expediting of the flow of low risk goods between the two countries by establishing secure procedures to clear goods in advance, including at rail yards and at marine ports.⁵²

Following 9/11, Canada committed significant resources to border security. In the December 2001 budget the federal government committed \$1.2 billion to keep the border open, secure, and efficient. Roughly half of these funds were allocated to border security and facilitation and \$600 million was earmarked for the Border Infrastructure Fund (BIF).⁵³ Specifically, the budget devoted \$646 million over five years to enhance border operations including “\$58 million over five years for initiatives to speed the passage of pre-approved travelers at land border crossings and for frequent air travelers,

⁵¹ *SBD*. The Integrated Border Enforcement Teams (IBET) are multi-agency law enforcement teams that target cross-border criminal activity. There are IBETs operating in all regions, on land and sea, along the border. See <http://www.publicsafety.gc.ca/prg/le/bs/ibet-en.asp> for further details into the nature and operations of the IBET.

⁵² *SBD*. It should be noted that since the signing of the *SBD*, two additional points of cooperation have been added to the 30-point action plan. In 2002 and 2004, both countries agreed to cooperate on issues related to Biosecurity and Science and Technology.

⁵³ The BIF is a program designed to improve border infrastructure. The program’s main objective is to facilitate the expansion of current border facilities in order to expedite the flow of people and goods as indicated in the *SBD*.

\$67 million over five years to equip Customs officers with better tools for risk-assessment and detection, and \$107 million over five years for the Canada Customs and Revenue Agency to acquire additional detection equipment.”⁵⁴

In the 2003 budget, the federal government reemphasized its commitment to implementing the 32-point action plan of the *SBD* and the resources allocated in the 2001 budget. The federal government committed “additional funds of \$75 million over two years for the security contingency reserve⁵⁵ as a further response to security needs, including those under the *SBD* Action Plan.”⁵⁶ Further details were also provided as to how the \$600 million BIF would operate. The federal government committed \$150 million from the fund to address immediate border infrastructure needs in Windsor, Ontario. In partnership with the Province of Ontario, it also invested \$300 million towards improving border infrastructure at the Windsor-Detroit border crossing.⁵⁷

The 2004 and 2005 budgets devoted additional resources to improving border security. Budget 2004 allocated a further \$286 million to the security contingency reserve for the development and implementation of key border management initiatives such as the FAST and NEXUS programs and the IBETs.⁵⁸ The 2005 budget committed

⁵⁴ Canada, Government of Canada, Department of Finance, Budget 2001: A Secure, Open and Efficient Border, available at, <http://www.fin.gc.ca/budget01/bp/bpch5e.htm>, (Accessed 11 September 2007).

⁵⁵ The security contingency reserve was created in the December 2001 Budget with an initial allocation of \$345 million. This reserve was established to allow the Government to respond to future security needs that could not be anticipated.

⁵⁶ Canada, Government of Canada, Department of Finance, Budget 2003: Building the Canada we Want, available at, <http://www.fin.gc.ca/budget03/bp/bpc6e.htm>, (Accessed 11 September 2007).

⁵⁷ Budget 2003.

⁵⁸ Canada, Government of Canada, Department of Finance, Budget 2004: Moving Forward on the Priorities of Canadian - The Importance of Canada's Relationship to the World, available at, <http://www.fin.gc.ca/budget04/bp/bpc4ee.htm>, (Accessed 11 September 2007).

\$433 million over five years “to further strengthen the capacity of the Government to deliver secure and efficient border services.”⁵⁹

While there was no guarantee that all resources would be allocated appropriately or that they would be sufficient to meet the needs of the various agencies and departments responsible for implementing the *SBD*, they did reflect the high priority Canada placed on border security. There is evidence that the vast majority of funds allocated in the 2001 budget were channeled to priority areas.⁶⁰

These significant budgetary commitments reflect the high priority given to border security initiatives by the Canadian government in the three years following 9/11. Significantly for this thesis, each of the budgets released after 9/11 made specific reference to the interconnected nature of public security and economics to Canadians.

The US also committed significant resources to improving border security, including \$9 billion to support improved border and transportation security.⁶¹ The importance of a cooperative approach to border security was also given expression in US government’s September 2002 *National Security Strategy*. This document states:

Our [US] border controls will not just stop terrorists, but improve the efficient movement of legitimate traffic. We know that to defeat terrorism in today’s globalized world we need support from our allies and friends . . . and where governments find the fight against terrorism beyond their capacities, we will match their willpower and their resources with whatever help we and our allies can provide.⁶²

⁵⁹ Canada, Government of Canada, Department of Finance, *Budget 2005: Meeting Our Global Responsibilities*, available at, <http://www.fin.gc.ca/budget05/pamph/parespe.htm>, (Accessed 11 September 2007).

⁶⁰ Auditor General of Canada, *March 2004 Report of the Auditor General of Canada to the House of Commons*, 3.

⁶¹ United States, Government of the United States, Office of Management and Budget, Executive Office of the President of the United States, “Department of Homeland Security,” <http://www.whitehouse.gov/omb/budget/fy2005/homeland.html>, (Accessed 11 September 2007).

⁶² United States, Government of the United States, The White House, “Chapter III: Strengthen Alliances to Defeat Global Terrorism and Work to Prevent Attacks Against Us and Our Friends,” *The National Security*

According to Graham Flack, the fact that the US committed significant financial resources to this approach to border security highlights Canada's influence in the negotiations with the US on the *SBD*. US officials realized that a new risk management approach to border security was the most appropriate policy choice for both countries post 9/11.⁶³

The concept of a risk management approach to border security was implemented in full at the Canada-US border upon the adoption of the various features of the *SBD* Action Plan. This concept is based on the assumption that by filtering intelligently and with the assistance of technology, resources can be concentrated on higher-risk people and goods, allowing low-risk movements to pass through.⁶⁴ The concept seems to have emerged out of the discussions that took place amongst the partners of the October 1999 Canada-US Partnership Forum (CUSP),⁶⁵ an earlier attempt to facilitate high-level dialogue on border management.

At first glance, it may appear that the work of the BTF did not constitute a new policy direction for Canadian border security agencies. But further examination shows that Canada was attempting to obtain support for programs and initiatives that it considered were in its national interest, while at the same time remaining attentive to the unique and sensitive position of the US following 9/11. It became clear to both Canada and the US that they needed to work together to modify border operations, in order to

Strategy of the United States of America, available at, <http://www.whitehouse.gov/nsc/nss3.html>, (Accessed 11 September 2007).

⁶³ Graham Flack, interview by author, tape recording, Saskatoon, SK, 18 July 2005.

⁶⁴ See Appendix 6 for a further examination of the risk management model to border operations.

⁶⁵ See Appendix 6 for the Executive Summary of the CUSP.

reflect the changing security realities. The *SBD* achieved this while confirming that security had a political and economic dimension for both countries.

By taking the initiative on the *SBD*, Canada achieved success in having its new risk management approach to border operations implemented on both sides of the border. At the same time, by engaging in a cooperative dialogue with the US, Canadian leaders affirmed one of the historical realities of Canadian foreign policy: Canada must remain a responsible and reliable continental ally to the US.

1.6 Prior Canada-US Border Agreements

Most of the literature agrees that the *SBD* was produced and implemented promptly following 9/11 because it was based on a solid institutional and cooperative inter-agency infrastructure that had been established by four prior cooperative bilateral ventures undertaken by Canada and the US. Canada actually set the bilateral agenda on the border issue because it had done its homework long before 9/11 and because it was institutionally more nimble than the US government. For years Canada had been urging Washington to undertake joint measures that would improve border security and increase border efficiency.⁶⁶ It is useful to briefly examine these prior agreements.

In 1995 Canada and the US signed and began working to implement the Canada-US Accord on Our Shared Border (SBA).⁶⁷ The Accord addressed concerns raised by both countries regarding customs, as a result of the challenges faced by both governments in facilitating commercial traffic.⁶⁸ The SBA recognized the need for both governments to modernize rules, processes, and facilities at the border to facilitate trade and travel. It

⁶⁶ Clarkson, "The View From the Attic," 81.

⁶⁷ See Appendix 3 for the text of the SBA.

⁶⁸ Christopher Sands, "Fading Power or Rising Power: 11 September and the Lessons from the Section 110 Experience," *Canada Among Nations 2002: A Fading Power*, eds. Norman Hillmer and Maureen Appel Molot (Oxford: Oxford University Press, 2004), 56.

called upon the two governments to create a border “that permits commercial goods to flow easily between both countries.”⁶⁹ By promoting a joint approach to the management of the border, the two countries could achieve the common objective of enhancing bilateral trade. Following the signing of the SBA, both countries appointed a joint steering committee to develop an action plan in support of the objectives of the SBA.⁷⁰ These objectives were advanced in the *SBD* with the implementation of the FAST and NEXUS programs and with the funds allocated towards border infrastructure in the BIF.

The second bilateral border initiative was the April 1997 Border Vision Initiative (BVI)⁷¹ which sought to facilitate greater information-sharing and coordination between Citizenship and Immigration Canada and the US Immigration and Naturalization Services (INS), particularly at land border crossings, with respect to illegal immigration.⁷² The BVI adopted a three-pronged approach to addressing immigration issues. This involved finding solutions off-shore before people arrived in Canada, coordinating visa policies and procedures more effectively, and enhancing cooperation inland.⁷³ These features of the BVI were built upon by the SBD with the commitment to establish compatible immigration databases and to promote further intelligence coordination. This was further advanced with the signing of the Safe-Third Country Agreement in December 2002 that was established on the principle that refugee claimants would have to file for refugee

⁶⁹ Canada, Government of Canada, Citizenship and Immigration Canada, “Canada-US of America Accord on Our Shared Border,” available at, http://geo.international.gc.ca/can-am/main/border/customs_coop-en.asp, (Accessed 11 September 2007).

⁷⁰ Canada-US of America Accord on Our Shared Border.

⁷¹ See Appendix 4 for the text of the BVI.

⁷² Sands, “From Fading Power to Rising Power,” 56.

⁷³ Canada, Government of Canada, Citizenship and Immigration Canada, Performance Report for the Period ending March 31, 2000, available at, http://www.tbs-sct.gc.ca/rma/dpr/99-00/CIC-CIC/CIC9900dpr_e.asp, (Accessed 19 February 2007).

status in the country in which they first arrived rather than, for example, arriving in the US, and then applying for refugee status in Canada.

The third agreement, the Cross Border Crime Forum (CBCF), was established by the two countries in September 1997.⁷⁴ This agreement was created to encourage law enforcement agencies in both countries to work together more effectively to combat transnational crime issues such as smuggling, telemarketing fraud, money-laundering, missing children, and cyber-crime. It also established procedures for the formulation of bi-national threat assessments and created Integrated Border Enforcement Teams (IBETs).⁷⁵ IBETs are a multi-agency police team that works to target, interdict, and prevent cross-border criminal activity. In order to facilitate these objectives, customs and police agents share information across the border. These goals were advanced in the *SBD* by the fourth guiding principle of the Action Plan which committed both governments to expanding the role of the Integrated Border and Marine Enforcement Teams (IBET/IMET); ensuring comprehensive and permanent coordination of law enforcement, anti-terrorism efforts, and information sharing; establishing joint teams to analyze and disseminate information and intelligence, and to producing threat and intelligence assessments.⁷⁶

Finally in October 1999, the Canada-US Partnership Forum (CUSP) was created in order to promote high-level dialogue among governments, border communities, and stakeholders on border management.⁷⁷ Both Prime Minister Chretien and President Bill

⁷⁴ See Appendix 5 for the text of the CBCF.

⁷⁵ Sands, "From Fading Power to Rising Power," 56.

⁷⁶ *SBD*.

⁷⁷ To date, I have been unable to determine if there is an actual copy of the CUSP Forum agreement. A joint CUSP Forum report was released in December 2000 and is available at <http://www.dfait-maeci.gc.ca/can-am/washington/border/cusp2000-en.asp>. This report was published by both Canada and

Clinton endorsed three guiding principles to border management: streamlining, harmonizing, and collaborating on border policies and management; expanding co-operation to increase efficiencies in customs, immigration, law enforcement, and environmental protection at and beyond the border; and collaborating on threats outside Canada and the US.⁷⁸ Significantly, the risk management approach to border transactions encompassed in the CUSP found its way into the *SBD*, and more importantly, lies at the basis of how both countries' immigration and customs agencies have operated since 9/11. Evidence of such risk-management programs implemented since 9/11 includes the NEXUS and FAST programs.

An important impetus for all of these earlier agreements had been a need to promote further coordination and cooperation to facilitate commercial trade between Canada and the US. In other words, Canada had been promoting the development of a smarter border with the US since the mid-1990s, mainly for economic objectives. After the initial post 9/11 criticisms from some US officials about Canada's supposed lax border and immigration policies had subsided,⁷⁹ the two governments built upon a

the US with input from foreign affairs, customs, immigration, transportation, and criminal justice department or agencies in both countries.

⁷⁸ Canada, Government of Canada, Department of Foreign Affairs and International Trade, "Border Cooperation: Customs Cooperation," *Canada-US: A Strong Relationship*, available at, http://geo.international.gc.ca/can-am/washington/border/customs_coop-en.asp, (Accessed 11 September 2007).

⁷⁹ The criticisms mainly came from the media, such as Fox news anchor Bill O'Reily, but were repeated and enforced by many US Senators and Congressmen who raised concerns over the security of the northern border. Former Clinton ambassador to the United Nations Richard Holbrooke called Canada "a Club Med for terrorists" and the television program *America's Most Wanted* claimed that all nineteen hijackers had entered the US from Canada, a fact that was constantly repeated by some US news outlets. Senator Hillary Clinton is also quoted as repeating this ill-informed myth. This fact was constantly refuted by the Canadian government and was finally acknowledged as a myth by the US State Department in its annual survey of global terrorism covering the year 2001. These myths are well documented in Whitaker, "Securing the "Ontario-Vermont border": Myths and realities in post-9/11 Canadian-American security relations". Senator Clinton has since reversed her position and recently introduced legislation that would see the appointment of a northern border co-coordinator at the DHS who would focus exclusively on increasing security on the northern border without harming trade. See Sheldon Alberts, "Clinton joins border fight," *Kingston Whig-Standard*, 21 April 2005.

coordinate relationship that was already well entrenched. The *SBD* sought to clarify and expand upon these previous commitments.

1.7 Implementation of the SBD and Action Plan

The BTF, along with the ad hoc Cabinet Committee on Public Safety and Anti-Terrorism, was charged with the responsibility of coordinating the implementation of the *SBD*. This entailed providing the inter-departmental coordination necessary in order to implement the various components of the *SBD* Action Plan and creating the *SBD* progress reports that were requested by Manley and Ridge. The progress reports were designed to maintain accountability for the implementation of the *SBD* Action Plan.

Manley and Ridge received joint briefings by Canadian and US officials⁸⁰ so that they had the view of both governments on how each country was doing on each of the issues.⁸¹ The reports would be released on average once a year and give a detailed description of the progress made on each of the individual Action Plan items.

To date, there has been considerable progress on the *SBD* Action Plan. In the June 28, 2003 *Progress Report on the Smart Border Declaration*, the two Governments claimed to have made “tremendous progress.” Most notably, the *Report* claimed that there had been significant advances in the creation and implementation of the FAST program.⁸² More recently there has been more quantifiable progress in the development of FAST lanes at land border crossings. By November 23, 2004, FAST lanes were operational at 12 major border crossings⁸³ and as of December 17, 2004, the FAST

⁸⁰ Mr. Flack and Mr. Hornbarger were partly responsible for the drafting of these reports.

⁸¹ Graham Flack, Evidence to the Subcommittee on International Trade, Trade Disputes and Investment of the Standing Committee on Foreign Affairs and International Trade, Tuesday, 16 November 2004.

⁸² Canada, Government of Canada, Department of Foreign Affairs and International Trade, “Smart Border Action Plan Status Report,” available at, <http://geo.international.gc.ca/can-am/washington/border/status-en.asp>, (Accessed 11 September 2007).

⁸³ “The Free and Secure Trade Program.”

program was “operational at 19 of the highest-volume land border crossings along the Canada-US Border.”⁸⁴ To facilitate better implementation of this program, Canada also set up FAST driver enrollment centers at ten locations and created a portable enrollment center to facilitate driver enrollment in the FAST program.

1.8 Conclusion

In the immediate aftermath of 9/11, Canada took a wide range of actions at the domestic and international level to respond to the new security crisis. Its actions often corresponded with those of other western democratic nations but its primary focus, due to its geo-political and economic circumstances, was on keeping the Canada-US border open to goods and people. To this end, Canada committed significant political and financial capital in signing and implementing the *SBD*. It acted rapidly to establish the institutional framework that was required to develop and implement the *SBD* and the corresponding Action Plan. The creation of the BTF and the CBSA represented a major effort at the highest levels of the Canadian government to address and avert a potential border crisis.

It is clear that economic security was a major determinant in formulating Canada’s response to 9/11. By convincing the US that public safety and economic security were mutually enforcing objectives, Canada ensured that US security concerns did not trump trade. This principle was then enshrined in the *SBD*. Furthermore, by taking the initiative in institutionalizing the smart border process, Canada sought to ensure that its own security interests were protected, while demonstrating to the US, as it

⁸⁴ Government of Canada, Department of Foreign Affairs and International Trade, “A Strong Partnership,” available at, <http://www.dfait-maeci.gc.ca/can-am/menu-en.asp?act=v&mid=1&cat=1&did=2465>, (Accessed 11 September 2007).

has always done in continental security issues, that it was a responsible and reliable neighbour.

Chapter 2

Analysis of Canada's Response to Border Security Post 9/11

2.1 Introduction

The main purpose of this chapter is to provide an analysis of what Canada's response to the 9/11 attacks tells us about the nature of Canadian security policy. The chapter will be divided into three sections and will make the case that Canada's focus on the Canada-US border reflected three typical features of Canada's approach to security questions relating to the Canada-US bilateral relationship. These features were: 1) a predisposition to define security in economic terms; 2) a recognition of the prudence of taking the initiative on Canada-US security issues instead of reacting afterward to the declared position of the US; and 3) a predisposition to be a responsible and reliable neighbour to the US.

2.2 Canada's National Security Policy

David Dewitt and David Leyton-Brown have argued that "Canadian security policy should constitute those political-strategic objectives and instruments which have been identified and established by the government as central to national security interests."⁸⁵ More specifically, national security policy must be directly linked to national security priorities such as protection against threats to core institutions as well as the protection of individual Canadians.⁸⁶ That protecting core values and institutions and the interests of individual Canadians were the key security priorities for Canada in the months following 9/11 is clear. Of greatest importance were the efforts to secure the

⁸⁵ David Dewitt and David Leyton-Brown, Canada's International Security Policy, (Scarborough: Prentice-Hall Canada, 1995), 2.

⁸⁶ Dewitt and Leyton-Brown, Canada's International Security Policy, 3.

border in order to facilitate the flow of traffic, goods and citizens between the two countries, and thus the interests and values of Canadians.

2.3 Security as Economics

Historically, Canada has shown a predisposition to define its national security in economic terms. Measures deemed good for the Canadian economy have always been understood to enhance the sense of security felt by Canadians. Governments in Canada have always considered the economic well-being of Canadians, to be achieved by global and regional stability and, increasingly in recent decades, securing access to the US market — to be a primary national security concern.

Evidence that Canada has defined national security interests in terms of economic stability and access to the US market is found in past foreign policy statements issued by the governments of Prime Minister Pierre Trudeau, Brian Mulroney and Jean Chrétien. Each of these statements has affirmed that, for Canadians, security has an important economic dimension. In 1970 Trudeau's Foreign Policy for Canadians sought to give overall direction to Canada's foreign policy. Security was defined, as it had been by Canadians since World War II, as relating to considerably more than military security. What this document described as the "constant danger" posed by forces operating in a "strained" Cold War order to sovereignty, independence and cultural identity, defined as central to Canada's security, could be countervailed by trade diversification and technical cooperation with Europe and other developed countries.⁸⁷

In 1985 Prime Minister Brian Mulroney's Progressive Conservative government released its foreign policy statement, entitled Competitiveness and Security: Directions

⁸⁷ Canada, Government of Canada, Department of External Affairs Canada, Foreign Policy for Canadians. (Ottawa: Queen's Printer Canada, 1970), 23-24.

for Canada's International Relations whose main theme was that the international economic system and the international political and security system, while distinct, were closely linked. Economic hardship, for example, could lead to conflicts with neighbours.⁸⁸ These principles would later guide the Mulroney government in future discussions with the US regarding free trade.

In 1995 the Liberal government of Jean Chrétien released its foreign policy review, entitled Canada in the World. According to this document, Canada's foreign policy was to be guided by three central objectives, two of which were the promotion of prosperity and employment and the promotion of Canadian security within a stable global framework.⁸⁹ While it had been implied in earlier government documents and statements by Canadian leaders, it was now stated directly that security for Canadians meant "economic security" or rather the security that came from the strength and stability of international financial and trading institutions of which Canada was a part. The three foreign policy statements described above, issued by different governments operating in different eras, reflect the truism that for Canadians, security has a strong economic component.

The security of Canadians and their interests, of course, is heavily dependent on vibrant foreign trade. Canada's well-being has been and continues to be dependent on the maintenance of a strong trade sector. As Kim Richard Nossal has stated, "the necessity of marketing this great surplus of commodities must always be the principal concern of

⁸⁸ Canada, Government of Canada, Department of External Affairs, Competitiveness and Security: Directions for Canada's International Relations (Ottawa: Queen's Printer, 1985), 4.

⁸⁹ Canada, Government of Canada, Foreign Affairs Canada, Canada in the World: Canadian Foreign Policy Review 1995, available at http://www.dfait-maeci.gc.ca/foreign_policy/cnd-world/menu-en.asp (Accessed: 11 July 2005)

Canadian foreign policy”.⁹⁰ Roy MacLaren, Prime Minister Chrétien’s first Minister of International Trade, went as far as to say: “foreign policy *is* trade policy”.⁹¹ What this means is that Canadian leaders must always pay close attention to the Canada-US relationship — because most of Canada’s trade is conducted with its continental neighbour. In Jennifer Welsh’s words:

Our relationship with the US is the most significant of our foreign relationships. Given geographic realities, economic linkages, the configuration of power in the international system, and the values and interests we share with the US, working constructively with our neighbour to the south should be the focal point for our foreign policy.⁹²

What Canada’s response to 9/11 showed unmistakably was the inclination of Canadian leaders to view national security issues in economic terms. For example, they were far more preoccupied with economics and trade across the border than with Afghanistan. The situation at the border was dire. For the US government had considered tripling the number of border agents deployed at the northern border as mandated under the Patriot Act.⁹³ This deployment, if conducted without appropriate risk management programs, would have resulted in massive border delays. It was critical, Ottawa recognized, that Canada take steps to try to maintain the free flow of Canadian goods to the US market.

The need for an immediate bilateral solution to border security was echoed by a number of Canadian leaders at the time in public declarations. Public safety and economic security were two inter-related goals. In a speech on September 24, 2001 in Toronto, Prime Minister Chrétien discussed a conversation that he had earlier in the day

⁹⁰ Kim Richard Nossal, The Politics of Canadian Foreign Policy 3rd ed., (Scarborough: Prentice Hall Canada, 1997), 29-30.

⁹¹ Nossal, The Politics of Canadian Foreign Policy, 30.

⁹² Welsh, At Home in the World, 220.

⁹³ Andreas, “The Tale of Two Borders: The US-Canada and US-Mexico Lines After 9/11”, 9.

with US President George W. Bush. During that conversation, Chrétien said, both leaders had recognized “the importance of making sure that our economies continue to work well. In particular, we agreed that the movement of goods across our border should be normalized as quickly as possible.”⁹⁴ The two agreed that their governments needed to ensure the border would not become a permanent obstacle to trade.⁹⁵ In the days following 9/11, Canadian Ambassador to the US Michael Kirgin called Andrew Card, President Bush’s Chief of Staff, and agreed that the border disruptions needed to be addressed.⁹⁶

Canada’s most visible and public proponent of the *SBD* was then Minister of Foreign Affairs John Manley, who was appointed by the Prime Minister as the lead Minister on the border security file. His efforts in overseeing the writing, signing, and implementation of the *SBD* are well documented, and have been generally praised in the academic literature.⁹⁷ From the outset, Manley’s position was that the public safety and economic security priorities of Canada and the US were intrinsically linked and could only be protected by a bilateral approach to border security.

In an address to the US Foreign Policy Association in New York on November 5, 2001, Manley stated that, in the post 9/11 world, decisions made in Canada were driven by “the interlinked goals of protecting our citizens, providing assurance to our allies, and

⁹⁴ Former Prime Minister’s Newsroom Archive, 2001 Speeches, “Edited Transcript of the Prime Minister’s Address to the 2001 Confederation Dinner – September 27, 2001,” available at, <http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=archivechretien&Sub=Speeches>, (Accessed 18 September 2007).

⁹⁵ 2001 Confederation Dinner – September 27, 2001..

⁹⁶ Waddell, “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September,” 58.

⁹⁷ For an excellent summary of the relationship between Manley and Ridge see Welsh, *At Home in the World*, 83-84. For an analysis of the role Manley played in garnering the political, financial, and bureaucratic support necessary to implement the *SBD*, see Waddell, “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September,” 66. This is also supported by interviews this author conducted with Graham Flack and Christopher Hornbarger.

preserving the character of our society.”⁹⁸ The reference to the “character of our society” implied that Canadian institutions and values were at risk. He also stated that the ramifications of 9/11 for border traffic were serious and that business people on both sides of the border were justifiably concerned about continued delays. Manley commented that both he and Governor Ridge had agreed that it was possible and necessary for both countries to protect their citizens and to safeguard the cross-border economy. This vision would guide both leaders in their efforts to garner the appropriate resources and political support from their governments in order to implement the *SBD* Action Plan.

On November 28, 2001, Manley stated that the border had long been a priority for both governments. Citing the 1995 Canada-US Shared Border Accord and the 1997 Border Vision Initiative, he argued that Canadian and US border agencies had been cooperating on a wide range of new and innovative risk management measures aimed at facilitating legitimate trade and other traffic across the border, while at the same time meeting threats to our common security.⁹⁹ He also stressed the importance of technology in making the border safer and secure in the future.

In summary, it is clear that Canadian leaders, in responding to the events of 9/11, were immediately preoccupied with the security of the Canada-US border, giving relatively less thought to other ways in which Canada might respond to the crisis. The

⁹⁸ Canada, Government of Canada, Department of Foreign Affairs and International Trade, Statements and Speech, “Notes for an Address by the Honourable John Manley, Minister of Foreign Affairs, to the US Foreign Policy Association – November 5, 2001,” available at, <http://w01.international.gc.ca/minpub/Default.aspx?isRedirect=True&language=E>, (Accessed 18 September 2007).

⁹⁹ Government of Canada, Department of Foreign Affairs and International Trade, Statements and Speeches, “Notes for an Address by the Honourable John Manley, Minister of Foreign Affairs, To the Public Forum Conference on Managing our Border with the US – November 28, 2001,” available at, <http://w01.international.gc.ca/minpub/Default.aspx?isRedirect=True&language=E>, (Accessed 18 September 2007).

instinctual reaction in Ottawa was to think about the potential impact of these events upon Canada's stability and the security of Canadians – defined in economic terms — and in that way fit perfectly with the historical pattern by which Canada has defined its security relationship with the US. As Charles Doran has said, the main difference between Canadian and US notions of national security and foreign policy is that, “from the American foreign policy perspective, nothing exceeds the importance of the political-strategic dimension; from the Canadian foreign policy perspective, this dimension is secondary to the economic and commercial.”¹⁰⁰

2.4 Taking the Initiative

The *SBD* was also clearly a case of Canada taking the initiative in dealing with the US so as to gain leverage within the process of negotiations with the Bush Administration over how to respond to the 9/11 attacks. As shown earlier, the *SBD* was clearly a Canadian document, drafted by Canadian officials and presented to the US.

According to Graham Flack:

We presented our American counterparts in the White House with this vision in the *SBD* about a week before the meeting. We didn't hear a lot back from them until the day before so we were very nervous about how, you know, were they going to completely re-write it? And the document that Ridge ultimately signed with Manley was virtually unchanged from the declaration that we had developed and written.¹⁰¹

By taking an early and well-defined position in the early border discussions with the US, Canada was able to have significant influence over the process of developing the *SBD*.

In the post 9/11 environment, the US defined security in a very precise way. Whether the call was to triple the number of border agents deployed to the northern

¹⁰⁰ As cited in Joel J. Sokolsky and Joseph T. Jockel ed, Fifty Years of Canada-United States Defense Cooperation: The Road from Ogdensburg, (Lewiston: The Edwin Mellen Press, 1992), 4.

¹⁰¹ Graham Flack, interview by author, tape recording, Saskatoon, SK, 18 July 2005

border, to wage a ‘war on terror’, or to create the Department of Homeland Security (DHS), the new US foreign policy strategy post 9/11 placed a heavy emphasis on the use of military force. There were two main aspects of the US response: the pursuit abroad of a strategy of pre-emptive regime change and, back home, the initiation of counter-terrorism measures through the creation of the Department of Homeland Security.¹⁰² According to Frank P. Harvey, the events of 9/11 resulted in a “complete overhaul of US foreign policy and security priorities,” with the investment of billions of dollars in homeland security and the waging of war abroad against the terrorism threat, notably in Afghanistan and Iraq.¹⁰³ There were other initiatives taken by the Bush Administration, for example, major revisions to US immigration and policies and practices, but the emphasis on achieving security by military means was, in Harvey’s words, “the most visible.” Jennifer Welsh’s interpretation of the new US foreign policy thrust was that it was based on the generation of fear. “In fact fear and threat — rather than power — were the main factors that have shaped the administration of President George W. Bush.”¹⁰⁴

From where Canada stood, it was increasingly evident that for the US security, defined mainly in military terms, now “trumped everything”, a concept that would have serious repercussions for Canada. Frank Harvey predicted that the fear of more attacks would force Washington to “initiate a set of patterned responses that [would] seriously jeopardize Canada-US economic activity. Regardless of the mutual benefit of two-way trade, these and other economic interests [would] be sacrificed at the altar of homeland security every time. The economics of security [would] invariably trump the security of

¹⁰² Welsh, *At Home in the World*, 118.

¹⁰³ Frank Harvey, “Addicted to Security: Globalized terrorism and the inevitability of American unilateralism,” *International Journal* 59 (1) (Winter 2003-04), 36.

¹⁰⁴ Welsh, *At Home in the World*, 118.

economics.¹⁰⁵ The US geared up for a significant military response, following NATO's enactment of Article 5 of the North Atlantic Treaty, and it put border guards on high alert. There was talk among some US officials of a prolonged border closure. In these circumstances, Ottawa decided to take the initiative to get discussions going on the emerging border security crisis, lest the agenda be defined by Washington's determination to define security almost purely in military terms. A pro-active step was necessary to try to ensure that the US response to the crisis did not effectively close down the border.

The negotiations surrounding the *SBD* were not the first case where Canada has taken the initiative to try to get some leverage against the US on a difficult bilateral issue. Two earlier examples of this strategy, the negotiations with the US on the St. Lawrence Seaway Project in 1954 and the 1970 enactment of the Arctic Waters Pollution Prevention Act (AWPPA), are useful cases that help us understand what Canada was attempting to do in dealing with the US in the fall of 2001 on the border issue.

1954 St. Lawrence Seaway Project

The St. Lawrence Seaway has long been an important shipping route for Canada and the US. During the 1950s, a consensus emerged between the two countries that it was in the interest of both to build a joint set of waterways and canals to better facilitate commercial activity. The project was originally envisaged as an all-Canadian seaway but it turned into a joint project when a bilateral agreement was signed by Canada and the US in 1954. This occurred following much debate and political negotiation between the two countries.

¹⁰⁵ Frank Harvey, "Canada and the New American Empire: Implications for Security Policy," CBC Newsworld: Canada and the New American Empire, available at, <http://www.cbc.ca/empire/security.html>.

A joint project was what Prime Minister Louis St. Laurent had in mind when he traveled to Washington in September 1951 for discussions with US President Harry Truman. Following the meeting, a joint communiqué was released stating that the President and the Prime Minister “agreed on the vital importance to the security and the economies of both countries of proceeding as rapidly as possible with both the seaway and power phases of the project”.¹⁰⁶

But the project was slow to get moving as pressure immediately arose from US anti-Seaway lobby groups. The Prime Minister decided that Canada’s actions “must clearly show that we [Canada] would tolerate no more delays, no matter how well intentioned the Americans might be”.¹⁰⁷ To move the project ahead, his government introduced two pieces of legislation on December 4, 1951 in order to proceed with power development in the seaway and to establish the St. Lawrence Seaway Authority, which would be responsible for expropriating land and building the locks.¹⁰⁸ Both bills received unanimous consent in the House of Commons and were given Royal Assent on December 21, 1951.¹⁰⁹

For the next two years the Canadian government attempted to get the US Administration interested in pursuing negotiations. Finally, in January 1954 the newly elected US President Dwight Eisenhower agreed to support the project. Lionel Chevrier, the Minister of Transport in the St. Laurent Cabinet, has noted in his biography that, while there was still much opposition from US lobby groups, “most American

¹⁰⁶ William R. Willoughby, The St. Lawrence Seaway: A Study in Politics and Diplomacy, (Madison: The University of Wisconsin Press, 1961), 233-234.

¹⁰⁷ Lionel Chevrier, The St. Lawrence Seaway, (Toronto: The MacMillan Company of Canada, 1959), 49.

¹⁰⁸ Chevrier, The St. Lawrence Seaway, 47.

¹⁰⁹ Chevrier, The St. Lawrence Seaway, 48.

government officials were enthusiastically in favour of it”.¹¹⁰ The seaway was also viewed as an important project to the nearly sixty million Americans living in the eight states adjoining the Great Lakes.¹¹¹

What Canada secured during the negotiations leading to the 1954 agreement was the assurance that both countries would consult with each other on any matter regarding the seaway that was deemed to affect the other.¹¹² This was a hard-won concession from Washington, which showed the advantage of taking the initiative in bilateral negotiations with the US. On May 13, 1954, Eisenhower signed the Wiley-Dondero Act into law, which entrenched US support for the power and canal projects on the St. Lawrence River. The Act also provided \$105 million towards the project.¹¹³

According to Lionel Chevrier, there was some resentment in Canada that “the Americans were belatedly jumping aboard. It was realized in the end that American cooperation was diplomatically and practically the best thing. The seaway would be paid for largely by American ships. It was therefore preferable that the US have a voice in the construction of the project”.¹¹⁴ It has been argued that Canada made too great a sacrifice in getting the US Administration to sign on to the seaway project. The other view has been presented by historian Donald Masters:

the government emerged from the negotiations with some credit. While availing itself of the solid advantages of American participation in the seaway and power projects, it had paid considerable regard to the demands of Canadian pride and local interest. The final settlement was a reasonable compromise between what Canadians wanted and what circumstances permitted Canada to secure.¹¹⁵

¹¹⁰ Chevrier, The St. Lawrence Seaway, 44-45.

¹¹¹ Chevrier, The St. Lawrence Seaway, 45.

¹¹² Donald Masters, Canada in World Affairs, 1953-1955, (Toronto: Oxford University Press, 1959), 59.

¹¹³ Masters, Canada in World Affairs, 1953-1955, 55.

¹¹⁴ Chevrier, The St. Lawrence Seaway, 50-51.

¹¹⁵ Chevrier, The St. Lawrence Seaway, 60-61.

Chevrier believed that because Canada was determined to go ahead alone, the US would be stirred into action.¹¹⁶ Indeed it is clear that by taking the initiative on the St. Lawrence Seaway project, Canada was able to move the US to become engaged in the process and become a full partner in the project. William Willoughby agrees, observing that Canada's reiterated willingness to build the seaway as an all-Canadian project was the most important factor in getting Washington to sign on.¹¹⁷ By early 1954, even the most skeptical of Congressmen could no longer doubt Canada's ability and determination to go it alone. And they had decided that the US should have a voice in the seaway's construction and control.¹¹⁸

Chevrier also believed that the St. Lawrence Seaway was an axis of the Canadian economy and that Canada's efforts to secure US support "showed the world a peculiar example of international and inter-provincial cooperation and good will".¹¹⁹ The St. Laurent government's determination to build the seaway and its strong encouragement of the US to come on board was, according to Chevrier, further evidence that "Canada was becoming more distinct and more sure of ourselves. The St. Lawrence Seaway showed us that, almost without knowing it, we had become a great power."¹²⁰

1970 Arctic Waters Pollution Prevention Act (AWPPA)

A second historical example when Canada took the initiative in dealing with the US on a difficult issue occurred in 1970 with the enactment by the Trudeau government of the Arctic Waters Pollution Prevention Act (AWPPA). In 1968 immense quantities of

¹¹⁶ Chevrier, *The St. Lawrence Seaway*, 43.

¹¹⁷ William Willoughby, "The St. Lawrence Waterway Understandings," *International Journal*, 10 (1954-1955), 249.

¹¹⁸ Willoughby, "The St. Lawrence Waterway Understandings," 249.

¹¹⁹ Chevrier, *The St. Lawrence Seaway*, 146.

¹²⁰ Chevrier, *The St. Lawrence Seaway*, 146.

oil were discovered beneath the waters of Prudhoe Bay on the northern slope of Alaska. The traditional indifference that successive Canadian and US governments had shown towards the Arctic was soon replaced by an urgent concern about how to best access this new resource base and transport the oil while protecting the pristine and sensitive Arctic ecosystems. Of greatest importance to Canada was the issue of how to protect its sovereignty over the Arctic without engaging in a political battle with the US. From 1968 to 1970, Canadian and US officials found themselves embroiled in a serious disagreement over Canada's north.

The event that spurred Canada into action was the announcement in the summer of 1969 by Humble Oil, an American company acting on behalf of EXXON, that it would be sending its ship, the *Manhattan*, through Canada's portion of the Northwest Passage to test its feasibility as an oil delivery route.¹²¹ By the end of 1970, the *Manhattan* had made two relatively successful voyages through the Arctic with the assistance of Canadian ships. It was discovered, however, that these voyages posed a real threat to the Arctic environment, as ice had significantly damaged the *Manhattan*.

Canada resorted to unilateral action when, in the Speech from the Throne on October 23, 1969, the Trudeau government announced its official policy on the Arctic. Canada's intention, the Governor General stated, was to introduce legislation that would include measures to prevent pollution in the Arctic waters. This principle was enshrined

¹²¹ John Kirton and Don Munton, "Protecting the Arctic: The Manhattan Voyages, 1969-1970", Canadian Foreign Policy: Selected Cases, eds. John Kirton and Don Munton (Scarborough: Prentice Hall Canada Inc., 1992), 207.

in the AWPPA introduced on April 8, 1970 and passed and given royal assent on June 26, 1970.¹²²

Canada took the initiative in this case in response to the actions of a private US company, not the US government. Yet the action can be seen as an attempt to pre-empt an initiative on the Arctic that the Nixon Administration was contemplating at the international level and that would work against Canadian interests.¹²³ More specifically, by enacting the AWPPA, the Trudeau government effectively stole a march on the Nixon Administration, effectively preventing it from controlling the Arctic agenda by taking the related issues to a UN-sponsored conference involving the major maritime powers. Trudeau and his foreign policy adviser at the time, Ivan Head have since explained the strategy:

The United States quite clearly was apprehensive about any Canadian domestic legislation and wished to move immediately to...international negotiations. The challenge for the Canadian government was to retain control of the overall exercise. Not to do so would mean that the prevailing inadequate international agenda and standards of conduct – dominated as they were by the major maritime powers – would undoubtedly prevail.¹²⁴

Trudeau and his private secretary at the time, Thomas S. Axworthy have since written that by initiating action on the Arctic question, “a problem was turned into an opportunity...an initial threat was creatively managed and this initiative, in turn, led to

¹²² Maxwell Cohen, “The Arctic and the National Interest,” *International Journal* 26(1) (1970-71), 74 as cited in Rhiannon Stromberg, “Unilateralism in Canadian Foreign Policy: An Examination of Three Cases” (M.A. thesis, University of Saskatchewan, 2006), 14. This source provides an excellent analysis of Canada’s reasoning in taking unilateral action regarding the Arctic question.

¹²³ Ivan L. Head and Pierre Elliot Trudeau, *The Canadian Way: Shaping Canada’s Foreign Policy 1968-1984*, (Toronto: McClelland and Stewart Inc., 1995), 42-43.

¹²⁴ Head and Trudeau, *The Canadian Way*, 43.

Canadian advocacy of a new international regime to govern the Law of the Sea.”¹²⁵ What was creative about the management of the “threat” was the twofold strategy of finding support for the Canadian position among countries such as the United Kingdom, Sweden and the Soviet Union, and in the media in Canada and the US, and taking action in the first place that caught the US off-guard and forced senior US officials to respond to Canada’s agenda. It was this pre-emptive approach that allowed Canada, as Trudeau and Axworthy put it, to “ultimately prevail over much stronger adversaries”.¹²⁶

Drawing the Parallels

The St. Lawrence Seaway Project and the AWPPA cases represent instances where Canada was both proactive and effective in developing, promoting, and implementing policies that had a dramatic effect on the negotiations in which they were engaged in with the US. In the St. Lawrence Seaway case, the Canadian Government took the position early on that a bilateral approach to developing the Seaway was most desirable, that working together and negotiating with each other cooperatively and productively was the best way to proceed. In the end it was able to secure a commitment from the US to be a partner in the project. Similarly during the *SBD* negotiations Canadian officials, most notably John Manley and Graham Flack, decided along with their US counterparts, that a bilateral resolution to the border crisis was most appropriate.¹²⁷

One important difference between the AWPPA and *SBD* cases is that in the case of the former, Canada eventually turned a bilateral issue into a multilateral one. By

¹²⁵ Thomas S. Axworthy, “‘To Stand Not So High Perhaps but Always Alone’: The Foreign Policy of Pierre Elliot Trudeau” *Towards a Just Society: The Trudeau Years*, eds. Thomas S. Axworthy and Pierre Elliot Trudeau (Markham, Ontario: Penguin Books Canada Ltd, 1990), 28.

¹²⁶ Axworthy, “‘To Stand Not So High Perhaps but Always Alone’”, 38.

¹²⁷ Graham Flack, interview by author, tape recording, Saskatoon, SK., 18 July 2005.

obtaining international support for its position, it was able to strengthen its position with the US. In the case of the *SBD*, Canada resorted to a relatively effective bilateral approach that involved excluding Mexico from the border discussions with the US.¹²⁸ Canada excluded Mexico because it had no interest in Canada-US trade getting lumped in with chronic disputes about Mexican migration to the US.¹²⁹

The similarity between the AWPPA and the *SBD* cases is that in both there was an early recognition in Ottawa that it would have to manage the political aspects of the issue very carefully. Post 9/11, the concern for Canada was an early proposal promoted by some US officials that a security “perimeter” be created around North America. Through discussions, Canadian officials were able to get the concept dropped before it gained significant momentum. It also was able to get its own definition of, and solution to the border problem, drafted by the BTF in the PCO, accepted by US officials. The goal was to address the issue of border security before the US was able to implement its own restrictions at the border, possibly exacerbating border congestion problems. If the US had formulated the initial draft on border security, the emphasis would most certainly have been primarily on protecting the US and its citizens through strict security measures. The US position would have been entrenched and it would have been difficult, if not impossible, to get the US to accept the Canadian view that security had to do as much with economics as with increasing the number of border guards. In the event, Canadian officials were able to persuade the Bush Administration that economic security and

¹²⁸ Mexico and the US also signed a Border Partnership Accord on March 22, 2002 which contains similar pillars and Action Plan items contained in the Canada-US *SBD* but with a significant focus on immigration issues. It also contains an agreement to harmonize their respective planning systems and to facilitate communication between border-control agencies at ports of entry.

¹²⁹ Waddell, “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September,” 58.

national security were mutually reinforceable.¹³⁰ Christopher Hornbarger maintains that had US officials drafted the document, “things would have been worded differently” because the objectives would have been different.¹³¹

The discussions surrounding the *SBD* concluded surprisingly rapidly. Fortunately, for Canada there were also US officials who were concerned about the potential consequences of a prolonged border slowdown,¹³² allowing Canada to influence the content of the *SBD* and the accompanying Action Plan. It is perhaps ironic that one of the first US policies implemented following the 9/11 attacks was a bilateral and cooperative approach to border security initiated by Canada.

The Manley-Ridge Relationship

In analyzing the strategy followed by Canadian leaders negotiating the *SBD*, it is important to reiterate and reflect upon the excellent working relationship that existed between John Manley and Tom Ridge. The interpersonal chemistry between the two leaders helped to facilitate the respectful approach that both countries often exhibit in resolving bilateral issues. The leadership shown by Manley and Ridge and their officials was one of the primary reasons that the smart border negotiations concluded as efficiently and promptly as they did. The relationship between Manley and Ridge is important to note because, according to Allan Gotlieb, Canada’s Ambassador to the US from 1981 to

¹³⁰ Waddell, “Erasing the Line: Rebuilding Economic and Trade Relations after 11 September,” 60.

¹³¹ Christopher Hornbarger, interview by author, tape recording, Saskatoon, SK., 7 July 2005.

¹³² Graham Flack, interview by author, tape recording, Saskatoon, SK., 18 July 2005.

1989, Canada's influence in Washington depends on personal relationships. For Gotlieb, "good chemistry brings access, and access brings influence".¹³³

Both Manley and Ridge were acutely aware of the economic consequences of restricted border flows and understood that action had to be taken in order to preserve the delicate interdependent trading relationship between both countries. They were both able to effectively harness the political and financial support necessary to get the *SBD* off the ground. In the words of Graham Flack:

The 9/11 attacks created political oxygen at the highest levels of the two governments and it was a high political priority for both the PCO and the White House. Because the discussions were driven at that level, it was a lot easier to cut through the historic obstacles to that kind of transformative collaboration.¹³⁴

Both Flack and Hornbarger have recognized the importance of the chemistry between Manley and Ridge and its impact on the quickness with which agreement was reached on the text of the *SBD*. As Flack recalls:

Both Manley and Ridge shared a vision philosophically in terms of the economy and security both being important and they were both pragmatic individuals who wanted to find practical solutions to doing that, they were both risk takers who were willing to take on established positions if they thought it was the right thing to do and they both had a personal chemistry that developed into a close friendship.¹³⁵

Hornbarger supports this by stating that "Manley and Ridge got along well. They were friends and they remain friends. They enjoyed each other's company and that helps a lot...those relationships definitely helped. It made both the process fun and it just made things move."¹³⁶ What is also significant is the fact that Ridge, a former Governor of Pennsylvania, understood how the border worked, how important the cross-border trading

¹³³ As cited in Welsh, *At Home in the World*, 221.

¹³⁴ Graham Flack, interview by author, tape recording, Saskatoon, SK, 18 July 2005.

¹³⁵ Graham Flack, interview by author, tape recording, Saskatoon, SK, 18 July 2005.

¹³⁶ Christopher Hornbarger, interview by author, tape recording, Saskatoon, SK, 7 July 2005.

relationship is, how integrated the two economies are, and how critical the security dimension of the situation was. That Ridge accepted the innovative risk management approach to border security proposed by Canada is an important part of the story.

2.5 On being a Responsible and Reliable Neighbour

Canada's initiation of the *SBD* speaks to Canada's unique position in the North American security community and specifically, its special relationship with the US. Historically, a fundamental premise of Canadian foreign policy is Canada's commitment to being a reliable and responsible neighbour to the US. A most prominent example of this was Canada's commitment during the Cold War to protect North American airspace, reflected in the building and manning of the Distant Early Warning (DEW) Line, the Mid-Canada Line and the Pinetree Line to monitor the skies of Canada's North.

Immediately following 9/11, steps were taken by Canada to assure the US that security was also a high political priority for Canada. The Canadian government made it clear that security and economic objectives were mutually reinforcing and could be strengthened with a new approach to border security. These were the predictable actions of a reliable and responsible neighbour.

The Kingston Dispensation

Stephane Roussel has developed a theoretical framework that helps us analyze Canada's response to the border crisis following 9/11; the framework is called the Kingston Dispensation. The basis of this theory lies in the assumption that Canada and the US have a mutual commitment to maintaining the security, and to coming to the aid of one another in times of crisis. The reference point for the Kingston Dispensation framework are speeches given by US President Franklin Roosevelt and Canadian Prime

Minister William Lyon Mackenzie King in August 1938. On August 18 of that year, on the eve of the Second World War, speaking in Kingston Ontario, Roosevelt articulated the idea of reciprocity in defence between the two countries by stating that: “The Dominion of Canada is part of the sisterhood of the British empire. I give to you [Canada] assurance that the people of the US will not stand idly by if domination of Canadian soil is threatened by any other Empire”.¹³⁷ Two days later, King responded to Roosevelt, stating that “we too have obligations as a good and friendly neighbour and that enemy forces not be able to pursue their way either by land, sea or air to the US across Canadian territory”.¹³⁸

In the words of Michael Fortmann and David Haglund, “each country understood that it had a ‘neighbourly’ obligation to the other, not only to refrain from any activities that might imperil the security of the other, but also to demonstrate nearly as much solicitude for the other’s physical security needs as for its own”.¹³⁹ Fortmann and Haglund maintain that these two statements have been the basis of Canada-US defence relations ever since and no Canadian prime minister has ever deviated from the concept.¹⁴⁰

The Kingston Dispensation and the SBD

Admittedly, these early proclamations of mutual security between Canada and the US were made at a time when the nature of the threat to North American was quite

¹³⁷ John J. Noble, “Defending the US and Canada, In North America and Abroad”, *Policy Options* 26(4) (May 2005), 24.

¹³⁸ Noble, “Defending the US and Canada, In North America and Abroad”, 24.

¹³⁹ Michael Fortmann and David Haglund, “Canada and the issue of Homeland Security: Does the ‘Kingston Dispensation’ still hold?” *Canadian Military Journal* 3(1) (Spring 2002), 18.

¹⁴⁰ Noble, “Defending the US and Canada, In North America and Abroad,” 24.

different from what it is today. But the Kingston Dispensation can be usefully applied in assessing Canada's response to the Canada-US border crisis following 9/11.

By engaging in discussions around creating a smarter border and by allocating significant budgetary expenditures to that end, Canada was giving assurances to the US that the security of the US would be protected by every Canadian effort possible.

Canadians were saying that they were clearly committed to protecting the interests of both Canadian and US citizens — by shoring up the physical and human resources at the border.

The opening text of the *SBD* stated this outright, declaring that the terrorist attacks of 9/11 not only represented an attack on “our common commitment to democracy, the rule of law and a free and open economy...but ... highlighted a threat to our public and economic security.”¹⁴¹ The Canadian contribution to the negotiations was the addition of economics and trade as an important feature of North American security. In order to preserve the economic relationship between both countries, the *SBD* pledged each nation to “work together to address these threats to our people, our institutions and our prosperity”.¹⁴² In essence, the *SBD* made it clear that Canada and the US would work together as they had in the past to improve security measures at the border.

That Canada understood the political necessity of remaining a responsible and reliable neighbour post 9/11 is evidenced in several public declarations made by various Canadian officials in the months following 9/11. Most notably, Manley stated that in the post 9/11 world decisions made in Canada were driven by “the interlinked goals of protecting our citizens, providing assurance to our allies, and preserving the character of

¹⁴¹ *SBD*.

¹⁴² *SBD*.

our society”.¹⁴³ This was the underlying philosophy that drove Canada’s response to the border crisis. The Minister for International Trade, the Honourable Pierre Pettigrew, also stated on October 22, 2001 during a speech to the Canadian Association of Importers and Exporters that Canada “worked in unison with the US on the border issue to bring certainty to the trade flows... [and the] security and anti-terrorism measures...[were] also a message to our American partners that a joint approach to border security means that the border remains open for business and closed to terror.”¹⁴⁴

Perhaps the clearest evidence of Canada’s efforts to remain a responsible and reliable neighbour to the US following 9/11 were the lengthy efforts made by Canada in the months and years following 9/11 to cooperate with the US in responding to the attacks. Canada committed a significant troop deployment to the war in Afghanistan, provided over \$7 billion in the December 2001 budget to security and enforcement initiatives, established the ad hoc Cabinet Committee on Public Security and Anti-Terrorism and created the Department of Public Safety and Emergency Preparedness Canada (PSEPC). The Canada Border Services Agency (CBSA) was also created in December 2003 and was responsible for ensuring the twin goals of public safety and economic security at the border were maintained. The CSBA has also been the main government agency responsible for implementing the *SBD*. These institutional efforts provide significant evidence that Canada was serious about addressing the threat of

¹⁴³ Canada, Government of Canada, Department of Foreign Affairs and International Trade, Statements and Speeches, “Notes for an Address by the Honourable John Manley, Minister of Foreign Affairs, to the US Foreign Policy Association – November 5, 2001,” available at, <http://w01.international.gc.ca/minpub/Default.aspx?isRedirect=True&language=E>, (Accessed 18 September 2007).

¹⁴⁴ Canada, Government of Canada, Department of Foreign Affairs and International Trade, Statements and Speeches, “Notes for an Address by the Honourable Pierre Pettigrew, Minister for International Trade, to the Canadian Association of Importers and Exporters - October 22, 2001,” available at, <http://w01.international.gc.ca/minpub/Default.aspx?isRedirect=True&language=E>, (Accessed 18 September 2007).

international terrorism both at home and abroad. They provided a momentous show of support to Canada's most important trading partner. These efforts were often lauded by various US officials including Governor Tom Ridge and US Ambassador Paul Cellucci. The domestic efforts to maintain an open and secure border with the US, as examined in Chapter 1, were done with the intention of protecting Canada but also ensuring the US that Canada would be a full and committed partner in protecting American economic and political interests.

2.6 Conclusion

This chapter has attempted to show that Canada's focus on the Canada-US border in the wake of 9/11 reflected three typical features of Canada's approach to North American security questions. First of all, Canadians have a tendency to define security in economic or trade terms. This was evident in the aftermath of 9/11 when Canada undertook to ensure, first and foremost, that the Canada-US border remained open to Canadian goods.

Secondly, Canadians have discovered that taking the initiative in bilateral negotiations with the US can be a useful strategy in securing Canadian interests. There were deep concerns in Canada that the US conception of security post 9/11, defined mainly in military terms, might lead to an ignoring of the trading relationship conducted across the Canada-US border. Prior to the events of 9/11, Canadian officials had convinced their counterparts in the US that the goals of economic and public security were mutually reinforcing. By building on this earlier understanding, and taking the initiative and harnessing the support of key US officials, Canadian leaders succeeded in getting the US to sign on to the smart border process.

Thirdly, Canadians are by nature disposed to provide assurances to the US that their understanding of security necessarily includes the security of the neighbour to the south. This was borne out in the earlier historical issues examined in this chapter and in Canada's response to 9/11. Following 9/11, Canada immediately provided assurances to the US that Canada would be a key ally. Abroad, this took the form of supporting the resolutions passed by the UN, the enactment of Article 5 by NATO, providing a significant troop deployment to Afghanistan, and at home, Canada made every effort possible to demonstrate to the US that the Canada-US border was safe and secure. This was accomplished by initiating the bilateral talks that lead to the *SBD* and by increasing both the political and bureaucratic effort to secure the border. Sometimes this meant dispelling the myths that were often recited by various US officials about the potential threat that the border was to US security. It is clear that Canada made significant gains in the *SBD* negotiations by remaining respectful and understanding of the US's precarious position following the attacks and by remaining true to Canada's history of remaining a responsible and reliable neighbour to the US.

In essence, Canada was successful in achieving an agreeable solution to the post 9/11 border crisis because it held true to its historical predisposition to define security in economic terms, by understanding the necessity of taking the initiative in bilateral issues with the US and while remaining respectful and understanding to the position of the US. This resulted in an effective approach to border security and the implementation of various policies and programs that remain in effect to this day.

Chapter 3

Conclusion

3.1 Overview of thesis objectives

Canada has never been immune to the threat of international or domestic terrorism. At defining moments in Canadian history, the extreme impact of terrorist attacks have forced Canada to address very real and grave threats to its national security. Canadians faced both domestic and international terrorism during the FLQ crisis in Quebec, the Air India bombing, the Bali Indonesia attacks and the 9/11 attacks. It is clear from the security literature that the primary responsibility of any national government is to protect its citizens. Canada responded to 9/11 by making considerable efforts to prepare Canada and protect Canadians from any possible repercussions from the 9/11 attacks or from potential future attacks.

The main objective of this thesis has been to demonstrate that Canada's response to 9/11 revealed the particular approach often taken by Canada to address questions of national security bearing on the Canada-US relationship. It has been argued that 9/11 brought about familiar challenges for Canada in dealing with the US and resulted in policies that were in line with traditional notions of Canadian security policy. The thesis has shown that a central feature of Canada's response to 9/11 was a focus on the security of the Canada-US border, the primary policy response being the *SBD*. It has explored how the Canadian diplomatic initiative around the *SBD* reflected the tendency of Canadians to define security in economic terms and to view it as a North American, rather than simply Canadian, phenomenon. It has also shown that by taking the initiative, Canada was successful in negotiating a complex and cooperative agreement with the US

that was in Canada's best economic interests. As previously demonstrated, it was mainly Canadian ideas and Canadian language that formed the basis for Washington's first major policy initiative on homeland security after 9/11.¹⁴⁵ Equally importantly, the thesis has demonstrated that Canada can effectively take the initiative in matters of continental importance while remaining a responsible and reliable neighbour to the US.

3.2 Summary of major findings

The first significant finding of the thesis is that following 9/11, the Canadian government made significant financial investments and a variety of bureaucratic changes in order to respond to the attacks. The restructuring of various government agencies and departments were a concerted effort to better protect Canada and prepare it for any future terrorist attacks. The government established the Cabinet Committee on Security, Public Health, and Emergencies, the Department of Public Safety and Emergency Preparedness Canada (PSEPC), the Canada Border Services Agency (CBSA) and committed \$7.7 billion over five years to security and enforcement initiatives in the December 2001 budget,

Canada's actions also represented a determined resolve to respect international legal norms, as witnessed by the passing of anti-terrorism legislation (Bill C-36) to abide by UNSC Resolutions 1368 and 1373. This was also affirmed by Canada's support for the North Atlantic Treaty Organization's (NATO) enactment of Article 5 of the North Atlantic Treaty and its support for the mission in Afghanistan.

But the most significant finding in the thesis was the fact that Canada became preoccupied with the issue of border security in the months following 9/11. This was evident from various efforts taken at the highest levels of the Canadian government to

¹⁴⁵ Welsh, *At Home in the World*, 59.

secure the border. To prevent an even greater crisis at the border, there were immediate and ongoing discussions between Canadian officials and their US counterparts. Both Prime Minister Chrétien and US President Bush recognized that the border had to remain open to legitimate trade and traffic. In order to address the border crisis, the Canadian Government established the Borders Task Force (BTF) within the Privy Council Office (PCO) that was responsible for advising Deputy Prime Minister John Manley, the lead Minister on the border security file, on border issues, as well as coordinating the policy development, negotiation and the implementation of the *SBD*.

The *SBD* was signed on December 12, 2001 and encompassed various measures that both countries were committed to implementing. For the purposes of this thesis, the Free and Secure Trade Program (FAST) was a significant program that was incorporated into the *SBD* on the insistence of Canada during the *SBD* negotiations. The implementation of the FAST program was a breakthrough because prior to 9/11, the US had been reluctant to agree to it. The program supports moving pre-approved eligible goods across the border quickly by verifying trade compliance before goods reach the border.

What this thesis has argued is that Canada's response to 9/11 and the signing of the *SBD* with the US has revealed three typical features of Canada's response to threats to its national security and to the Canada-US bilateral relationship. These features were: 1) a predisposition to define security in economic terms; 2) a recognition of the prudence of taking the initiative on Canada-US security issues instead of reacting afterward to the declared position of the US; and 3) the importance of being a responsible and reliable neighbour to the US.

Canada's response to 9/11 highlighted the inclination of Canadian political leaders to view national security issues in predominantly economic terms. This has been demonstrated throughout the thesis by highlighting both the immediate concern shown by Canadian leaders for security at the Canada-US border as well as by the significant financial resources and institutional capacity established to implement the *SBD*. The underlying principle that guided the discussions leading to the *SBD* was the realization that the public safety and economic security priorities of Canada and the US were fundamentally linked and would be best protected with a bilateral approach to border security. This idea is entrenched in the text of the *SBD* which states that "our current and future prosperity and security depend on a border that operates efficiently and effectively under all circumstances."¹⁴⁶

The case of the *SBD* has also shown how prudent it is for Canada to take the diplomatic, political or policy initiative in dealing with the US on a bilateral issue. This was the approach taken immediately following 9/11 because it soon became apparent that the US was going to define security in predominantly military terms. One of the US's first instincts was to simply "add more people at the border".¹⁴⁷ However, by seizing the initiative, Canada was able to draft the *SBD* within the context of establishing a new and innovative approach to border security, one based on the principle of risk-management and one that supported the reality that economic and public security priorities were mutually reinforcing objectives.

Canada took the initiative in this case and achieved a significant policy triumph vis-a-vis the US. The fact that the draft of the *SBD* went virtually unchanged by US

¹⁴⁶ *SBD*.

¹⁴⁷ Graham Flack, interview by author, tape recording, Saskatoon, SK., 18 July 2005.

officials clearly demonstrates that the *SBD* was highly influenced by Canadian officials and a Canadian approach to border security. This vision was fully accepted and advanced by a key ally in the US Administration, the Director of Homeland Security (DHS) Tom Ridge. Ridge understood how the border worked and how integral it was to the economies of both countries that it continue to operate effectively and that border operations could be improved without threatening the security of either country. Ridge was also successful in advancing this concept to some people in the “US administration who were talking about the need to tighten the border as the sole vehicle for enhancing border security.”¹⁴⁸

Canada has occasionally been successful in taking the initiative with the US in two other cases examined in Chapter 2. It had success in negotiating an agreement with the US to build the St. Lawrence Seaway and enacted the Arctic Waters Pollution Prevention Act (AWPPA) despite considerable domestic and foreign pressures. These cases, while different from the *SBD* in some respects, provide supporting evidence that Canada has often had to manage the political aspects of issues between Canada and the US very carefully. This may seem self-evident in terms of Canada-US relations however, the concept is often forgotten in times of crisis or when significant domestic or foreign pressure is brought to bear on the Canadian government. Following 9/11 it was clear that the US was “addicted to security” and the threat of a prolonged border closure was a real and grave threat to the Canadian economy. To prevent this, the Canadian government initiated the negotiations that led to the implementation of new and innovative programs to better process goods and people, effectively to maintain an open yet secure border with Canada’s largest trading partner.

¹⁴⁸ Graham Flack, interview by author, tape recording, Saskatoon, SK., 18 July 2005.

By taking the initiative and coming to an agreement relatively quickly on the border issue, Canada was successful in both alleviating some of the criticisms that surfaced in Canada by those who felt, and perhaps still do, that Canada was only doing what the US wanted. Its actions also seemed to quell the criticisms that came from south of the border from officials who considered Canada a safe-haven for terrorists. Certainly Canada found a key ally in Tom Ridge who believed in the same concepts that Canada put forward and worked constructively with Manley to come to an agreement.

It is also significant that the philosophy that led to the *SBD* also guided the discussions that led to Canada's signing of the Security and Prosperity Partnership of North America agreement (*SPP*) with the US and Mexico in March 2005 (See Appendix 8 for the *SPP*). At a glance, and according to Christopher Hornbarger¹⁴⁹, the *SPP* is an extension of past agreements between Canada and the US in that security initiatives already in place are given further attention; however, the agreement now includes Mexico. The goal of this new partnership is to improve the response to internal and external threats while helping the flow of goods across the borders of the three countries.¹⁵⁰ The *SPP* also proposes further cooperation on issues such as biometric technology, developing benchmarks on visa issues, and developing a coordinated strategy on threats to the food supply and agricultural sectors.¹⁵¹ The *SPP* also makes it clear that, if there was a major incident in either country, all three nations would work together to resume cross-border trade as soon as possible.

¹⁴⁹ Christopher Hornbarger, interview by author, tape recording, Saskatoon, SK., 7 July 2005.

¹⁵⁰ Allison Dunfield, "North American security plan unveiled", *Globe and Mail*, June 27, 2005, Online edition.

¹⁵¹ Dunfield, "North American security plan unveiled."

It appears that the *SBD* was the cornerstone of what became the *SPP* as officials on both sides of the border saw an opportunity following the implementation of the *SBD* to broaden the umbrella of policies in which to cooperate. The *SPP* operates under the same guiding principles that underpinned the *SBD*.¹⁵² The fact that the *SPP* is based on the principle of improving security cooperation in order to maintain economic ties in times of crisis is significant. Now that Mexico is a partner in this venture, it has more of a multilateral dimension to it.

Canada's efforts to implement new security measures at the Canada-US border were clearly an effort to remain a responsible and reliable neighbour with the US. As it has in the past, Canada showed the US that it could be relied on during a time of crisis to engage the US in mutually beneficial policy objectives. The thesis has argued that the case falls in line with the theoretical Kingston Dispensation theory advanced by Stephane Roussel. By engaging in the smart border process, by making public declarations in support of the US, and by allocating significant budgetary expenditures to border security and implementing new programs, Canada was giving assurances to the US that the security of the US would be protected by every Canadian effort possible. Canada was saying that it was clearly committed to protecting both Canadian and US citizens from the terrorist threat — by shoring up the physical and human resources at the border.

3.3 Realities at the Canada-US border

Throughout this thesis no attempt has been made to claim that the border is operating under ideal conditions. Nor does the thesis make the claim that there are no difficulties in Canada-US border relations. In the past few years, reports have emerged that highlight various infrastructure and personnel deficiencies and political difficulties

¹⁵² Christopher Hornbarger, interview by author, tape recording, Saskatoon, SK., 7 July 2005.

that exist at the border. For example, border delays at many of the highest volume crossings are a major concern for businesses and governments alike.

Problems are most acute at the Windsor-Detroit border crossing. According to the Ontario Chamber of Commerce, border delays are currently costing the US economy more than \$4.1 billion (US) a year and costing the Canadian economy \$8 billion (US) a year.¹⁵³ The Chamber forecasts that by the year 2020, the US could lose more than 17,000 jobs and that by 2020, 91,000 jobs could be lost if current border infrastructure deficiencies are not addressed. The Windsor-Detroit crossing is cited as the “choke-point of the economy” and companies in the region are the hardest hit by delays. Also of grave concern is the fact that a binational commission currently studying the best solution for the border woes at the Windsor-Detroit crossing predict that a new crossing will not be operational until 2013.¹⁵⁴

Border congestion problems and infrastructure deficiencies are also well documented in the June 2005 Interim Report of the Canadian Senate Committee on National Security and Defence. The report highlights the vulnerability of Canada’s economic dependency on the US market and provides recommendations that it considers necessary in order to shore up Canada’s commitment to maintaining an open and secure border with the US. The Committee is most concerned about the level of training of some CBSA border guards and its primary recommendation requests that the government arm border guards in order to better protect themselves and Canadians.

The Committee also recommended that the federal government grant itself special powers to “expedite” the completion of a new border crossing linking Windsor, Ontario

¹⁵³ Sheldon Alberts, “Choked border crossings cost U.S. economy \$4B a year”, National Post, 21 April 2005, A.4.

¹⁵⁴ Alberts, “Choked border crossings cost U.S. economy \$4B a year,” A.4.

with Detroit, Michigan by 2011. The report estimates that a four hour delay at the Windsor-Detroit crossing costs the Ontario economy \$7 million (Canadian) in lost production and costs the Michigan economy \$14.3 million (Canadian). It warns that if major infrastructure changes are not made as soon as possible, congestion and delays at the Windsor-Detroit crossing will cost an estimated \$20.8 billion (Canadian) a year by 2030.¹⁵⁵

In order to address some of these concerns, Canada announced in the summer of 2005 that it will be hiring 270 more border guards over the next five years. The government also announced that it will be implementing the recommendations of a study analyzing job risks at the border.¹⁵⁶ It remains to be seen if these and other measures will adequately address the problems at the border.

¹⁵⁵ Canada, Senate of Canada, Standing Senate Committee on National Security and Defence, 10th Report: Borderline Insecure: Canada's Land Border Crossings are Key to Canada's Security and Prosperity. Why the lack of Urgency to fix them? What will happen if we don't?, (Released 15 June 2005), available at, <http://www.parl.gc.ca/38/1/parlbus/commbus/senate/Com-e/defe-e/rep-e/repintmainjun05-e.htm>, (Accessed: 16 September 2007).

¹⁵⁶ Canada, Government of Canada, Public Safety and Emergency Preparedness Canada, "Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness announces measures to improve border security", available at, <http://www.publicsafety.gc.ca/media/nr/2005/index-en.asp>, (Accessed 18 September 2007).

Figure 2: The Ambassador Bridge in Windsor, Ontario



3.4 Recommendations for further research

Further research into this subject should focus on assessing the full extent of why Canada defines security to include the security of the US and as having a strong economic component to it. Is it, as Jennifer Welsh believes, because of Canada's geographical realities, its natural economic linkages, the configuration of power in the international system, or the values and interests that Canadians share with the US,¹⁵⁷ or are there other factors involved? Canada's deep economic ties and asymmetrical dependence on trade with the US is well documented and, in the past, as in the case of

¹⁵⁷ "Model Neighbours," *Canada World View*, 24 (Winter 2005), available at, <http://www.dfait-maeci.gc.ca/canada-magazine/issue24/02-title-en.asp#1>

¹⁵⁸ Welsh, *At Home in the World*, 220.

Trudeau's Third Option, it has been discovered that other trade options are extremely unlikely.

Additional research might also be conducted into other cases where Canada has taken the initiative in an important bilateral issue with the US. While this thesis only examined two other cases in Canada's history, there are surely others that support the argument advanced here — that taking the initiative with the US based on sound policy principles while showing both respect and understanding for the US position can be an effective strategy for Canada. The question needs to be raised as to what are the limits to Canada utilizing such a strategy.

Further research could be conducted to examine why Canada seemingly has a predisposition to act as a responsible and reliable neighbour to the US. Does it have something to do with Canada's political culture, with Canadian internationalism, or with other aspects of the traditions of Canadian diplomacy?

This thesis has demonstrated that the events of 9/11 resulted in Canada taking a particular approach to negotiations with the US to address security issues at the Canada-US border. Canada responded by clearly stating that economic concerns could not be trumped by the security priorities of either country and that a bilateral approach to improving operations and infrastructure at the border would be of mutual benefit to both countries. Canada quickly established an effective and centralized negotiating body in the BTF to engage with the US in order to come to a resolution of the border crisis. The *SBD* emerged as a mutually agreeable solution to the post 9/11 border crisis.

Appendix 1: The Smart Border Declaration (SBD)

THE SMART BORDER DECLARATION

BUILDING A SMART BORDER FOR THE 21st CENTURY ON THE FOUNDATION OF A NORTH AMERICAN ZONE OF CONFIDENCE

The terrorist actions of September 11 were an attack on our common commitment to democracy, the rule of law and a free and open economy. They highlighted a threat to our public and economic security. They require our governments to develop new approaches to meet these challenges. This declaration commits our governments to work together to address these threats to our people, our institutions and our prosperity.

Public security and economic security are mutually reinforcing. By working together to develop a zone of confidence against terrorist activity, we create a unique opportunity to build a smart border for the 21st century; a border that securely facilitates the free flow of people and commerce; a border that reflects the largest trading relationship in the world.

Our countries have a long history of cooperative border management. This tradition facilitated both countries' immediate responses to the attacks of September 11. It is the foundation on which we continue to base our cooperation, recognizing that our current and future prosperity and security depend on a border that operates efficiently and effectively under all circumstances.

Action Plan

The attached *Action Plan for Creating a Secure and Smart Border* includes the measures already identified by our colleagues as well as new initiatives. Four pillars support the action plan:

(1) The Secure Flow of People

- We will implement systems to collaborate in identifying security risks while expediting the flow of low risk travellers.
- We will identify security threats before they arrive in North America through collaborative approaches to reviewing crew and passenger manifests, managing refugees, and visa policy coordination.
- We will establish a secure system to allow low risk frequent travellers between our countries to move efficiently across the border.

(2) The Secure Flow of Goods

- We will implement a system to collaborate in identifying high risk goods while expediting the flow of low risk goods.

- We will identify security threats arriving from abroad by developing common standards for screening cargo before it arrives in North America, while working to clear goods at the first port of entry.
- We will adopt compatible security standards at production and distribution facilities to minimize security threats. We will expedite the flow of low risk traffic between our countries by establishing compatible commercial processes at the border.
- We will expedite the flow of low risk goods between our countries by establishing secure procedures to clear goods away from the border, including at rail yards and at marine ports.

(3) Secure Infrastructure

- We will relieve congestion at key crossing points by investing reciprocally in border infrastructure and identifying technological solutions that will help to speed movement across the border.
- We will identify and minimize threats to our critical infrastructure including the airports, ports, bridges, tunnels, pipelines and powerlines that link our countries.

(4) Coordination and Information Sharing in the Enforcement of these Objectives

- We will put the necessary tools and legislative framework in place to ensure that information and intelligence is shared in a timely and coherent way within our respective countries as well as between them.
- We will strengthen coordination between our enforcement agencies for addressing common threats.

Next Steps

- We will meet again early in the new year to review the critical paths that we have asked our officials to develop for realizing each of the objectives set out in the action plan. We will consult regularly to ensure continued progress on this plan to achieve the goals outlined as quickly as possible.
- This joint action plan is an important step. Our governments are committed to building on this plan to continually identify and implement measures that can be taken to secure a smart border.
- These measures are regarded by both governments as matters of the highest priority.

Ottawa, Canada
December 12, 2001

Source; <http://www.dfait-maeci.gc.ca/anti-terrorism/declaration-en.asp>

Appendix 2: Smart Border Declaration Action Plan

ACTION PLAN FOR CREATING A SECURE AND SMART BORDER

THE SECURE FLOW OF PEOPLE

1) Biometric Identifiers

Jointly develop on an urgent basis common biometric identifiers in documentation such as permanent resident cards, NEXUS, and other travel documents to ensure greater security.

2) Permanent Resident Cards

Develop and deploy a secure card for permanent residents which includes a biometric identifier.

3) Single Alternative Inspection System

Resume NEXUS pilot project, with appropriate security measures, for two-way movement of pre-approved travelers at Sarnia-Port Huron, complete pilot project evaluation and expand a single program to other areas along the land border. Discuss expansion to air travel.

4) Refugee/Asylum Processing

Review refugee/asylum practices and procedures to ensure that applicants are thoroughly screened for security risks and take necessary steps to share information on refugee and asylum claimants.

5) Managing of Refugee/Asylum Claims

Negotiate a safe third-country agreement to enhance the managing of refugee claims.

6) Visa Policy Coordination

Initiate joint review of respective visa waiver lists and share look-out lists at visa issuing offices.

7) Air Preclearance

Finalize plans/authority necessary to implement the Preclearance Agreement signed in January 2001. Resume intransit preclearance at Vancouver and expand to other airports per Annex I of the Agreement.

8) Advance Passenger Information / Passenger Name Record

Share Advance Passenger Information and agreed-to Passenger Name Records on flights between Canada and the US, including in-transit flights. Explore means to identify risks posed by passengers on international flights arriving in each other's territory.

9) Joint Passenger Analysis Units

Establish joint units at key international airports in Canada and the US.

10) Ferry Terminals

Review customs and immigration presence and practices at international ferry terminals.

11) Compatible Immigration Databases

Develop jointly an automated database, such as Canada's Support System for Intelligence, as a platform for information exchange, and enhance sharing of intelligence and trend analysis.

12) Immigration Officers Overseas

Increase number of Canadian and US immigration officers at airports overseas and enhance joint training of airline personnel.

13) International Cooperation

Undertake technical assistance to source and transit countries.

THE SECURE FLOW OF GOODS

14) Harmonized Commercial Processing

Establish complementary systems for commercial processing, including audit-based programs and partnerships with industry to increase security. Explore the merits of a common program.

15) Clearance Away from the Border

Develop an integrated approach to improve security and facilitate trade through away-from-the-border processing for truck/rail cargo (and crews), including inland preclearance/post-clearance, international zones and pre-processing centers at the border, and maritime port intransit preclearance.

16) Joint Facilities

Establish criteria, under current legislation and regulations, for the creation of small, remote joint border facilities. Examine the legal and operational issues associated with the establishment of international zones and joint facilities, including armed protection or the arming of law enforcement officers in such zones and facilities.

17) Customs Data

Sign the Agreement on Sharing Data Related to Customs Fraud, exchange agreed upon customs data pursuant to NAFTA, and discuss what additional commercial and trade data should be shared for national security purposes.

18) Intransit Container Targeting at Seaports

Jointly target marine intransit containers arriving in Canada and the US by exchanging information and analysts. Work in partnership with the industry to develop advance electronic commercial manifest data for marine containers arriving from overseas.

SECURE INFRASTRUCTURE

19) Infrastructure Improvements

Work to secure resources for joint and coordinated physical and technological improvements to key border points and trade corridors aimed at overcoming traffic management and growth challenges, including dedicated lanes and border modeling exercises.

20) Intelligent Transportation Systems

Deploy interoperable technologies in support of other initiatives to facilitate the secure movement of goods and people, such as transponder applications and electronic container seals.

21) Critical Infrastructure Protection

Conduct binational threat assessments on trans-border infrastructure and identify necessary additional protection measures, and initiate assessments for transportation networks and other critical infrastructure.

22) Aviation Security

Finalize Federal Aviation Administration-Transport Canada agreement on comparability/equivalence of security and training standards.

COORDINATION AND INFORMATION SHARING IN THE ENFORCEMENT OF THESE OBJECTIVES

23) Integrated Border and Marine Enforcement Teams

Expand IBET/IMET to other areas of the border and enhance communication and coordination.

24) Joint Enforcement Coordination

Works toward ensuring comprehensive and permanent coordination of law enforcement, anti-terrorism efforts and information sharing, such as by strengthening the Cross-Border Crime Forum and reinvigorating Project Northstar.

25) Integrated Intelligence

Establish joint teams to analyze and disseminate information and intelligence, and produce threat and intelligence assessments. Initiate discussions regarding a Canadian presence on the U.S. Foreign Terrorist Tracking Task Force.

26) Fingerprints

Implement the Memorandum of Understanding to supply equipment and training that will enable the RCMP to access FBI fingerprint data directly via real-time electronic link.

27) Removal of Deportees

Address legal and operational challenges to joint removals, and coordinate initiatives to encourage uncooperative countries to accept their nationals.

28) Counter-Terrorism Legislation

Bring into force legislation on terrorism, including measures for the designation of terrorist organizations.

29) Freezing of Terrorist Assets

Exchange advance information on designated individuals and organizations in a timely manner.

30) Joint Training and Exercises

Increase dialogue and commitment for the training and exercise programs needed to implement the joint response to terrorism guidelines. Joint counter-terrorism training and exercises are essential to building and sustaining effective efforts to combat terrorism and to build public confidence.

31) Biosecurity

A bi-national working group will develop an action plan for collaboration on biosecurity issues. The work will reinforce and modernize external borders against shared risks to the food supply, to human, plant and animal health and to the environment on which these depend. The working group is examining how to synchronize enforcement procedures for managing risks at the shared land border, and to enhance cooperation in domestic biosecurity management.

32) Science and Technology Cooperation

Canada and the US have reached an agreement in principle on the text of the bilateral agreement on science and technology cooperation in order to address gaps in existing arrangements between the two countries. It will enable any Canadian federal government agency to engage in co-operative research and development with any U.S. federal agency in the area of critical infrastructure protection and border security.

Source; <http://www.dfait-maeci.gc.ca/anti-terrorism/actionplan-en.asp>

Appendix 3: Canada-US Accord on Our Shared Border (SBA)

February 1995

A Canada/United States of America Accord on Our Shared Border

Context

Canada and the United States are more than neighbours. Sharing a common past, many interests and objectives, we have become friends, allies and economic partners. Our relationship is a model for the world.

Canada and the United States have been and will continue to be the world's largest trade partnership. Millions of tourists cross the border visiting both countries; and close, longstanding relationships between Canadians and Americans involve relatives and friends visiting each other. In addition, both countries are and will continue to be attractive destinations for people from around the world wishing to immigrate permanently.

As societies we share concerns about the scourge of drugs, about the smuggling of illicit goods, and about the illegal and irregular movement of people into our countries.

Common Objectives

We already have the longest undefended border in the world. We now need to create the most efficiently managed border in the world.

The environment in which our border services operate is rapidly changing. Travel, trade and tourism along our shared border have increased significantly every year. The ability of both governments to respond to the challenges of this new and rapidly changing environment requires that rules, processes and facilities at the border be modernized to facilitate trade and travel, while at the same time adequately protecting the public, and making optimal use of scarce public funds.

We are committing our two governments to work together to find a better way to manage our shared border. Specifically, this means creating a border that:

permits commercial goods and legitimate travellers to flow easily between both countries; allows business travellers and commuters to travel unimpeded; and permits friends and relatives in both countries to visit each other with minimal formalities. Finally, this means focusing our efforts and limited resources more effectively on the illegal or irregular movement of goods and people.

The two governments agree that a joint approach to the management of the border should be guided by the following objectives:

To promote international trade by:

- adopting the best practices of each country to harmonize commercial border processes and procedures;
- developing jointly, the use of advanced technology; and
- working together to influence the use of standard technology world-wide.

To facilitate the movement of people by:

- streamlining processes for tourists and other temporary entrants such as business travellers and temporary workers; providing enhanced services for frequent travellers at remote land border crossings, small airports, and on common waterways; and
- establishing common visa requirements and coordinated processes for both countries, where feasible, and to the extent permitted by law.

To provide enhanced protection against drugs, smuggling and the illegal and irregular movement of people by:

- sharing responsibility for asylum seekers;
- focusing our resources on high risk, illegal and irregular activity; and
- increasing our exchange of information and our use of technology regarding high risk goods and people.

To reduce costs for both government and users by:

- developing a strategy for the increased use of common facilities, personnel and other infrastructure in providing Customs and Immigration services.

Specific Initiatives for Immediate Action

In order to assure early progress toward achieving these common objectives, the two governments will appoint a joint steering committee from the Customs and Immigration services (and other agencies as appropriate) to develop an action plan in support of the above objectives and that they should report back on progress within six (6) months.

A list of specific initiatives which should be included in the action plan is set out below:

- the establishment of a joint Canada/United States frequent traveler program, bringing together the US PORTPASS and Canadian CANPASS programs, to be implemented gradually at all major land border sites and airports;
- the use of automated entry devices at selected remote ports of entry;
- permit and telephone reporting systems for private aircraft and boats;
- joint client services and programs to assist the trading community and the traveling public;
- the development of common data requirements and processes to support the introduction of electronic clearance of commercial goods;

- consultations prior to construction or renovation of border facilities, to achieve economies from joint use or sharing of facilities; the procurement and sharing of high cost equipment;
- the pursuit of an agreement on sharing responsibility for asylum seekers;
- to explore common visa requirements and coordinated processes for both countries, where feasible, and to the extent permitted by law;
- joint training programs for border personnel;
- the feasibility of cross-designation and sharing of personnel; and
- the sharing of information and expertise to support improved compliance.

Source; <http://www.cbsa-asfc.gc.ca/general/border/menu-e.html>

Appendix 4: April 1997 Canada-US Border Vision Initiative

Note: Based on all available research, there exists no exact text of the 1997 Canada-US Border Vision Initiative. The only public record I was able to locate was this press release in the archives of former Prime Minister Jean Chretien.

New Canada-U.S. Initiatives on Border Issues Announced

April 8, 1997
Washington D.C.

Prime Minister Jean Chrétien today announced a series of agreements with the Government of the United States to accommodate the growing flow of people across the Canada-U.S. border. The agreements, concluded during the Prime Minister's visit to Washington, will streamline the legitimate movement of people and goods, while strengthening enforcement through cooperation between border and law enforcement agencies.

These measures will bring significant advantages to small border communities, busy ports of entry, businesses and travellers. They build on the landmark *Shared Border Accord* and *Open Skies Agreement* signed during the visit of U.S. President Bill Clinton to Ottawa in February 1995.

To ease the movement of people and goods across the border, the two governments agree to:

- Reduce congestion at some of the busiest entry points by building **Commercial Vehicle Processing Centres** on the most suitable side of the border. The first centre will be built by early 1999 at the Fort Erie, Ontario-Buffalo Peace Bridge crossing and will provide U.S. customs services at Fort Erie to American-bound traffic. By early 1999, commercial vehicles will line up for processing at off-road facilities, eliminating traffic tie-ups and delays for other vehicles.
- Clear commercial carriers electronically with **the North American Trade Automation Prototype** which will reduce traffic congestion significantly and lower costs for businesses and consumers. The initiative, based on common data, documents and procedures, begins this month on a test basis at the Buffalo-Fort Erie and Detroit-Windsor border crossings.
- As a truck approaches the border, special transponder devices will send a signal to customs identifying the truck, the driver and the cargo. After evaluating whether the shipment meets customs clearance requirements, Customs will send a message to the truck, instructing it to enter the compound or continue on its route.
- Offer an **Automated/Remote Permits Ports** program to provide round-the-clock service by the year 2000 to small communities all along the shared border, by using technology such as remote video inspection. This service will allow people in small border communities to cross the border -- for dinner or a movie, for example -- avoiding

drives of up to an hour to the nearest full-time border station. Consultations on service to 22 paired border communities will begin this fall.

- **Reduce the number of customs stops** from four to two for in transit commercial carriers moving goods through either country, beginning in the fall of 1997. This will eliminate 300,000 processing stops annually on the New York State-Ontario-Michigan border alone, saving truckers millions of dollars without compromising border security.
- Construct **Joint Border Facilities**. The first venture will be a U.S.-Canada customs and immigration facility at the Coutts, Alberta-Sweetgrass, Montana border. Such facilities will increase efficiencies.
- Conduct **joint seminars** to assist the trading community to meet Canada-U.S. customs requirements with the aim of further reducing unnecessary delays at ports of entry.
- In July, **Pre-clearance Services** at the Ottawa airport will be established. This will allow airlines to provide better services to the U.S.

To capitalize on growing trade opportunities, Canada plans to work closely with the United States to plan more efficient and innovative cross-border transportation facilities. The purpose is to ensure that highway and rail transportation networks are adequate to meet the projected demands of the next decade and beyond. Border trade and transportation coalitions of public and private sector groups are playing a role in promoting cross-border cooperation.

Source:

http://www.pco.gc.ca/default.asp?Language=E&Page=archivechretien&Sub=NewsReleases&Doc=news_re19970408502_e.htm

Appendix 5: 1997 Cross Border Crime Forum

Note: Based on all available research, there exists no exact text of the 1997 Cross Border Crime Forum. The only public record I was able to locate was this press release in the archives of former Prime Minister Jean Chretien.

New Initiatives to Combat Transborder Crime Announced

April 8, 1997
Washington, D.C.

Prime Minister Jean Chrétien announced today that Canada and the United States will launch new initiatives to increase cooperation against transborder crime.

"We will broaden our joint efforts to protect the most vulnerable people in society -- the young and the elderly," said the Prime Minister following his meeting with U.S. President Bill Clinton in Washington. "We want to ensure the border is not a barrier behind which criminals can hide."

The new measures include:

- Increased cooperation to locate missing and abducted children. A working group, including the U.S. National Centre for Missing and Exploited Children and Canada's "Our Missing Children Program", has been set up to ensure law enforcement agencies in both countries are able to help recover missing and abducted children. Under the Canadian program, some 500 youths have been reunited with their families, nearly half of them American citizens;
- A binational law enforcement working group to combat cross border telemarketing fraud. Telemarketing fraud preys especially on the elderly in Canada and the U.S. Law enforcement agencies are to report back within six months on joint progress in fighting this type of crime;
- A Canada-U.S. consultative mechanism on criminal justice and law enforcement. This high level policy group would prompt government action on problems and pinpoint new issues that must be dealt with cooperatively; and
- Joint discussions between Canadian and U.S. working groups on cross-border smuggling and law enforcement, an initiative of Solicitor General Herb Gray and U.S. Attorney General Janet Reno. The first meeting of this joint group will be held in Windsor, Ontario in late spring and will involve the U.S. Northeast Border Working Group and the recently-formed Canadian Anti-Smuggling Coordinating Group.

Source:

http://www.pco.gc.ca/default.asp?Language=E&Page=archivechretien&Sub=NewsReleases&Doc=news_re19970408499_e.htm

Appendix 6: October 1999 Canada-U.S. Partnership Forum (CUSP)

Do to the length of the December 2000 CUSP report, I have only included the Executive Summary. Please follow the link below for the full report.

EXECUTIVE SUMMARY

The Canada-U.S. Partnership Forum (CUSP) was launched in October 1999 by Prime Minister Chrétien and President Clinton to promote high-level dialogue among governments, border communities, and stakeholders on border management. The President and the Prime Minister endorsed three guiding principles of border management: streamline, harmonize and collaborate on border policies and management; expand co-operation to increase efficiencies in customs, immigration, law enforcement and environmental protection at and beyond the border; and collaborate on threats outside Canada and the United States.

Not only our border communities, but all of the United States and Canada have much at stake in ensuring that our common border runs smoothly, that the 99% of trade and travelers that are legal can cross the border easily, and that we can focus enforcement instead on the remaining 1% of cross-border activity. With US\$1.2 billion in trade crossing the border every day and 200 million travelers (two-way) crossing each year, "getting it right" is critical to both countries. The U.S. and Canadian governments are committed to creating a more open border over the next 10-15 years.

CUSP meetings held on April 11-12, 2000 in Niagara-on-the-Lake, Ontario and in Buffalo, New York, and on June 22-23, 2000 in Vancouver, British Columbia and in Blaine, Washington, provided an opportunity to exchange views and draw upon the expertise of border stakeholders. These border communities were eager to address border challenges, and many of them have a head start on federal governments in developing creative solutions to local problems.

CUSP participants at these meetings wanted consistent, transparent border management by governments on both sides of the border that avoided duplication. They valued the border as a geographic and symbolic line that defined our respective spaces, but wanted it to be "seamless." Harmonization of standards, processes and policies could contribute to this goal of seamlessness. Many participants suggested that more resources applied strategically were needed at the border. Others questioned whether resources would ever be able to keep up with increases in flows, while still others called for a re-thinking of traditional border management.

Risk management was seen as an effective way to expedite low-risk travelers and goods while focusing limited resources on those more apt to pose problems. For example, programs utilizing smart-card technologies or alternative accounting methods could have significant positive impact. "Intelligent Transportation Systems" offer potential for more efficient use of cross-border transportation networks.

A number of CUSP participants recommended looking at ways to move enforcement activities away from the border, thus reducing pressure on the border itself. Suggestions ranged from shifting inland the variety of paperwork currently processed at the border, to moving safety inspections and export controls as far from the border as practicable.

Some CUSP participants suggested that Canada and the United States should be trying to remove controls from the land border and instead move them out to a common perimeter. They urged federal governments to work together at managing flows into the region at this common perimeter and to address the global sources of instability that spawn illegal flows directed at both countries.

Inspection agencies stressed that they still have a mandate from federal governments to enforce our respective laws on the border, while using risk management to minimize congestion. Cooperation between U.S. and Canadian law enforcement agencies at the border continues to be excellent and a necessary component of thwarting cross-border criminal activity. These goals are complementary. We can make our internal border more open as we coordinate more closely on the perimeter.

Governments, communities, the private sector and NGOs must work together to address the challenges before us. These groups are already active in a number of binational fora focused on improving border management. Many CUSP participants asked for greater strategic direction in border management, believing that governments should move boldly in implementing border management principles. Our shared ecological zones also require a cooperative approach. We breathe the same air, drink the same water and share the same species of wildlife along the border.

The management of these cross-cutting international issues demands coordinated and cooperative action by many agencies from both sides of the border up to and including integrated horizontal solutions. The public expects it, and our global competitiveness depends on it. What needs to be done?

- CUSP should continue to meet, primarily but not exclusively in border communities, to solicit the views of stakeholders on how to make our border one which remains a beacon of friendship, mutual respect, and efficiency well-suited to the 21st century. We recommend that the next CUSP meeting be held in 2001 in the Detroit/Windsor area. When appropriate, CUSP should prepare subsequent reports on the state of the border to allow governments and the public to assess what progress we are making in achieving our goal.
- Agency-to-agency cooperation should be deepened to build on the success of the past five years, and best practices in border management should be emulated wherever possible along the border. Some best practices include the Prearrival Processing System and Customs Self-Assessment Program for cargo, NEXUS identification cards for passengers, the Remote Video Inspection System/Remote Ports Program for unstaffed ports, and the Integrated Border Enforcement Team.
- Governments need to undertake a concentrated assessment of what we do at the border. Are there legislation, regulations or policies which might be streamlined,

harmonized or consolidated between the two governments? Can new arrangements be put in place away from our internal border and at our external border to reduce "double checking"? Governments need to determine whether these functions could be conducted differently and more cost-effectively.

- Legislators have an essential role in determining how the border serves our national interests, recognizing that two countries working together on a common game plan is far more effective and efficient than working alone. Legislation that improves border facilitation and security and the allocation of sufficient resources for such programs is a priority.

Source: <http://geo.international.gc.ca/can-am/main/border/cusp2000-en.asp>

Appendix 7: December 5, 2002 Safe Third Country Agreement

**AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

**FOR COOPERATION IN THE EXAMINATION OF REFUGEE STATUS
CLAIMS FROM NATIONALS OF THIRD COUNTRIES**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE
UNITED STATES OF AMERICA** (hereinafter referred to as “the Parties”),

CONSIDERING that Canada is a party to the 1951 Convention relating to the Status of Refugees, done at Geneva, July 28, 1951 (the “Convention”), and the Protocol Relating to the Status of Refugees, done at New York, January 31, 1967 (the “Protocol”), that the United States is a party to the Protocol, and reaffirming their obligation to provide protection for refugees on their territory in accordance with these instruments;

ACKNOWLEDGING in particular the international legal obligations of the Parties under the principle of non-refoulement set forth in the Convention and Protocol, as well as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984 (the “Torture Convention”) and reaffirming their mutual obligations to promote and protect human rights and fundamental freedoms.

RECOGNIZING and respecting the obligations of each Party under its immigration laws and policies;

EMPHASIZING that the United States and Canada offer generous systems of refugee protection, recalling both countries’ traditions of assistance to refugees and displaced persons abroad, consistent with the principles of international solidarity that underpin the international refugee protection system, and committed to the notion that cooperation and burden-sharing with respect to refugee status claimants can be enhanced;

DESIRING to uphold asylum as an indispensable instrument of the international protection of refugees, and resolved to strengthen the integrity of that institution and the public support on which it depends;

NOTING that refugee status claimants may arrive at the Canadian or United States land border directly from the other Party, territory where they could have found effective protection;

CONVINCED, in keeping with advice from the United Nations High Commissioner for Refugees (UNHCR) and its Executive Committee, that agreements among states may enhance the international protection of refugees by promoting the orderly handling of asylum applications by the responsible party and the principle of burden-sharing;

AWARE that such sharing of responsibility must ensure in practice that persons in need of international protection are identified and that the possibility of indirect breaches of the fundamental principle of non-refoulement are avoided, and therefore determined to safeguard for each refugee status claimant eligible to pursue a refugee status claim who comes within their jurisdiction, access to a full and fair refugee status determination procedure as a means to guarantee that the protections of the Convention, the Protocol, and the Torture Convention are effectively afforded;

HAVE AGREED as follows:

ARTICLE 1

1. In this Agreement,
 - a. **“Country of Last Presence”** means that country, being either Canada or the United States, in which the refugee claimant was physically present immediately prior to making a refugee status claim at a land border port of entry.
 - b. **“Family Member”** means the spouse, sons, daughters, parents, legal guardians, siblings, grandparents, grandchildren, aunts, uncles, nieces, and nephews.
 - c. **“Refugee Status Claim”** means a request from a person to the government of either Party for protection consistent with the Convention or the Protocol, the Torture Convention, or other protection grounds in accordance with the respective laws of each Party.
 - d. **“Refugee Status Claimant”** means any person who makes a refugee status claim in the territory of one of the Parties.
 - e. **“Refugee Status Determination System”** means the sum of laws and administrative and judicial practices employed by each Party’s national government for the purpose of adjudicating refugees status claims.
 - f. **“Unaccompanied Minor”** means an unmarried refugee status claimant who has not yet reached his or her eighteenth birthday and does not have a parent or legal guardian in either Canada or the United States.
2. Each Party shall apply this Agreement in respect of family members and unaccompanied minors consistent with its national law.

ARTICLE 2

This Agreement does not apply to refugee status claimants who are citizens of Canada or the United States or who, not having a country of nationality, are habitual residents of Canada or the United States.

ARTICLE 3

1. In order to ensure that refugee status claimants have access to a refugee status determination system, the Parties shall not return or remove a refugee status

- claimant referred by either Party under the terms of Article 4 to another country until an adjudication of the person's refugee status claim has been made.
2. The Parties shall not remove a refugee status claimant returned to the country of last presence under the terms of this Agreement to another country pursuant to any other safe third country agreement or regulatory designation.

ARTICLE 4

1. Subject to paragraphs 2 and 3, the Party of the country of last presence shall examine, in accordance with its refugee status determination system, the refugee status claim of any person who arrives at a land border port of entry on or after the effective date of this Agreement and makes a refugee status claim.
2. Responsibility for determining the refugee status claim of any person referred to in paragraph 1 shall rest with the Party of the receiving country, and not the Party of the country of last presence, where the receiving Party determines that the person:
 - a. Has in the territory of the receiving Party at least one family member who has had a refugee status claim granted or has been granted lawful status, other than as a visitor, in the receiving Party's territory; or
 - b. Has in the territory of the receiving Party at least one family member who is at least 18 years of age and is not ineligible to pursue a refugee status claim in the receiving Party's refugee status determination system and has such a claim pending; or
 - c. Is an unaccompanied minor; or
 - d. Arrived in the territory of the receiving Party:
 - i. With a validly issued visa or other valid admission document, other than for transit, issued by the receiving Party; or
 - ii. Not being required to obtain a visa by only the receiving Party.
3. The Party of the country of last presence shall not be required to accept the return of a refugee status claimant until a final determination with respect to this Agreement is made by the receiving Party.
4. Neither Party shall reconsider any decision that an individual qualifies for an exception under Articles 4 and 6 of this Agreement.

ARTICLE 5

In cases involving the removal of a person by one Party in transit through the territory of the other Party, the Parties agree as follows:

- a. Any person being removed from Canada in transit through the United States, who makes a refugee status claim in the United States, shall be returned to Canada to have the refugee status claim examined by and in accordance with the refugee status determination system of Canada.
- b. Any person being removed from the United States in transit through Canada, who makes a refugee status claim in Canada, and:

- i. whose refugee status claim has been rejected by the United States, shall be permitted onward movement to the country to which the person is being removed; or
- ii. who has not had a refugee status claim determined by the United States, shall be returned to the United States to have the refugee status claim examined by and in accordance with the refugee status determination system of the United States.

ARTICLE 6

Notwithstanding any provision of this Agreement, either Party may at its own discretion examine any refugee status claim made to that Party where it determines that it is in its public interest to do so.

ARTICLE 7

The Parties may:

- a. Exchange such information as may be necessary for the effective implementation of this Agreement subject to national laws and regulations. This information shall not be disclosed by the Party of the receiving country except in accordance with its national laws and regulations. The Parties shall seek to ensure that information is not exchanged or disclosed in such a way as to place refugee status claimants or their families at risk in their countries of origin.
- b. Exchange on a regular basis information on the laws, regulations and practices relating to their respective refugee status determination system.

ARTICLE 8

1. The Parties shall develop standard operating procedures to assist with the implementation of this Agreement. These procedures shall include provisions for notification, to the country of last presence, in advance of the return of any refugee status claimant pursuant to this Agreement.
2. These procedures shall include mechanisms for resolving differences respecting the interpretation and implementation of the terms of this Agreement. Issues which cannot be resolved through these mechanisms shall be settled through diplomatic channels.
3. The Parties agree to review this Agreement and its implementation. The first review shall take place not later than 12 months from the date of entry into force and shall be jointly conducted by representatives of each Party. The Parties shall invite the UNHCR to participate in this review. The Parties shall cooperate with UNHCR in the monitoring of this Agreement and seek input from non-governmental organizations.

ARTICLE 9

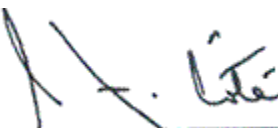
Both Parties shall, upon request, endeavor to assist the other in the resettlement of persons determined to require protection in appropriate circumstances .

ARTICLE 10

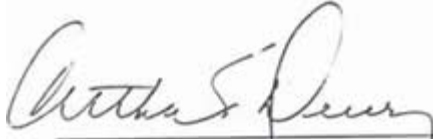
1. This Agreement shall enter into force upon an exchange of notes between the Parties indicating that each has completed the necessary domestic legal procedures for bringing the Agreement into force.
2. Either Party may terminate this Agreement upon six months written notice to the other Party.
3. Either Party may, upon written notice to the other Party, suspend for a period of up to three months application of this Agreement. Such suspension may be renewed for additional periods of up to three months. Either Party may, with the agreement of the other Party, suspend any part of this Agreement.
4. The Parties may agree on any modification of or addition to this Agreement in writing. When so agreed, and approved in accordance with the applicable legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

DONE at Washington D.C., this 5th day of December 2002, in duplicate in the English and French languages, each text being equally authentic.



**FOR THE GOVERNMENT
OF CANADA**



**FOR THE GOVERNMENT
OF THE UNITED STATES
OF AMERICA**

Source: <http://www.cic.gc.ca/english/policy/safe-third.html>

Appendix 8: 2005 Security and Prosperity Partnership of North American (SPP)

SECURITY AND PROSPERITY PARTNERSHIP OF NORTH AMERICA

SECURITY AGENDA

We are launching the next generation of our common security strategy to further secure North America and ensure the streamlined movement of legitimate travelers and cargo across our shared borders. To this end, Canada, the United States, and Mexico will work together to ensure the highest continent-wide security standards and streamlined risk-based border processes are achieved in the following priority areas:

Secure North America from External Threats

- Develop and implement a North American traveler security strategy, to include consistent outcomes with compatible processes, for screening prior to departure from a foreign port and at the first port of entry to North America.
- Develop and implement a North American cargo security strategy to ensure compatible screening methods for goods and cargo prior to departure from a foreign port and at the first point of entry to North America.
- Develop and implement a North American bioprotection strategy to assess, prevent, protect, detect, and respond to intentional, as well as applicable naturally occurring threats to public health and the food and agriculture system.

Prevent and Respond to Threats within North America

- Develop and implement a strategy to enhance North American maritime transportation and port security.
- Develop and implement a strategy to establish equivalent approaches to aviation security for North America.
- Develop and implement a comprehensive North American strategy for combating transnational threats to the United States, Canada, and Mexico, including terrorism, organized crime, illegal drugs, migrant and contraband smuggling and trafficking.
- Enhance partnerships on intelligence related to North American security.
- Develop and implement a common approach to critical infrastructure protection, and response to cross-border terrorist incidents and, as applicable, natural disasters.

Further Streamline the Secure Movement of Low-risk Traffic across our Shared Borders

- Develop and implement a border facilitation strategy to build capacity and improve the legitimate flow of people and cargo at ports of entry within North America.
- Identify, develop, and deploy new technologies to advance our shared security goals and promote the legitimate flow of people and goods across our borders.

SECURITY AND PROSPERITY PARTNERSHIP OF NORTH AMERICA

PROSPERITY AGENDA

Promoting Growth, Competitiveness and Quality of Life

To enhance the competitive position of North American industries in the global marketplace and to provide greater economic opportunity for all of our societies, while maintaining high standards of health and safety for our people, the United States, Mexico, and Canada will work together, and in consultation with stakeholders, to:

Improve Productivity

• Regulatory Cooperation to Generate Growth

- Lower costs for North American businesses, producers, and consumers and maximize trade in goods and services across our borders by striving to ensure compatibility of regulations and standards and eliminating redundant testing and certification requirements.
- Strengthen regulatory cooperation, including at the onset of the regulatory process, to minimize barriers.

• Sectoral Collaboration to Facilitate Business

- Explore new approaches to enhance the competitiveness of North American industries by promoting greater cooperation in sectors such as autos, steel, and other sectors identified through consultations.
- Strengthen North America's energy markets by working together, according to our respective legal frameworks, to increase reliable energy supplies for the region's needs and development, by facilitating investment in energy infrastructure, technology improvements, production and reliable delivery of energy; by enhancing cooperation to identify and utilize best practices, and to streamline and update regulations; and by promoting energy efficiency, conservation, and technologies such as clean coal, carbon capture and storage, hydrogen and renewable energy.
- Improve the safety and efficiency of North America's transportation system by expanding market access, facilitating multimodal corridors, reducing congestion, and alleviating bottlenecks at the border that inhibit growth and threaten our quality of life

(e.g., expand air services agreements, increase airspace capacity, initiate an Aviation Safety Agreement process, pursue smart border information technology initiatives, ensure compatibility of regulations and standards in areas such as statistics, motor carrier and rail safety, and working with responsible jurisdictions, develop mechanisms for enhanced road infrastructure planning, including an inventory of border transportation infrastructure in major corridors and public-private financing instruments for border projects).

- Work towards the freer flow of capital and the efficient provision of financial services throughout North America (e.g., facilitate cross-border electronic access to stock exchanges without compromising investor protection, further collaboration on training programs for bank, insurance and securities regulators and supervisors, seek ways to improve convenience and cost of insurance coverage for carriers engaged in cross border commerce).

- Stimulate and accelerate cross-border technology trade by preventing unnecessary barriers from being erected (e.g., agree on mutual recognition of technical requirements for telecommunications equipment, tests and certification; adopt a framework of common principles for e-commerce).

• Investing in our People

- Work through the Partnership for Prosperity and the Canada-Mexico Partnership to strengthen our cooperation in the development of human capital in North America, including by expanding partnerships in higher education, science, and technology.

Reduce the Costs of Trade

• Efficient Movement of Goods

- Lower the transaction costs of trade in goods by liberalizing the requirements for obtaining duty-free treatment under NAFTA, including through the reduction of “rules of origin” costs on goods traded between our countries. Each country should have in place procedures to allow speedy implementation of rules of origin modifications.

- Increase competitiveness by exploring additional supply chain options, such as by rationalizing minor differences in external tariffs, consistent with multilateral negotiation strategies.

- **Efficient Movement of People**

- Identify measures to facilitate further the movement of business persons within North America and discuss ways to reduce taxes and other charges residents face when returning from other North American countries.

Enhance the Quality of Life

- **Joint Stewardship of our Environment**

- Expand cooperative work to improve air quality, including reducing sulphur in fuels, mercury emissions, and marine emissions.

- Enhance water quality by working bilaterally, trilaterally and through existing regional bodies such as the International Boundary and Water Commission and the International Joint Commission.

- Combat the spread of invasive species in both coastal and fresh waters.

- Enhance partnerships and incentives to conserve habitat for migratory species, thereby protecting biodiversity.

- Develop complementary strategies for oceans stewardship by emphasizing an ecosystem approach, coordinating and integrating existing marine managed areas, and improving fisheries management.

- **Creating a Safer and More Reliable Food Supply while Facilitating Agricultural Trade**

- Pursue common approaches to enhanced food safety and accelerate the identification, management and recovery from food borne and animal and plant disease hazards, which will also facilitate trade.

- Enhance laboratory coordination and information-sharing by conducting targeted bilateral and/or trilateral activities to establish a mechanism to exchange information on laboratory methods and to build confidence regarding each other's testing procedures and results.

- Increase cooperation in the development of regulatory policy related to the agricultural biotechnology sectors in Canada, Mexico and the United States, through the work of the North American Biotechnology Initiative (NABI).

- **Protect our People from Disease**

- Enhance public health cross-border coordination in infectious diseases surveillance, prevention and control (e.g., pandemic influenza).

- Improve the health of our indigenous people through targeted bilateral and/or trilateral activities, including in health promotion, health education, disease prevention, and research.

- Building upon cooperative efforts under the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use, work towards the identification and adoption of best practices relating to the registration of medicinal products.

Source: <http://www.spp.gov/>

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