Smart Trumps Security: Canada’s border security policy since September 11

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In the immediate aftermath of the September 11 terrorist attacks, the concept of border security took on a new and unfamiliar meaning for Canada. Canadians were long used to the idea of a demilitarised, “undefended border.” At the same time, the need for a protected and monitored border had long been apparent when it came to issues such as transnational crime, illegal immigration, gun trafficking and even the mundanities of revenue generation through Canada Customs.

What changed immediately after September 11 didn’t involve a wholesale invention of the concept of border security, rather a profound shift in focus. There were two elements to this shift, both new. One was the urgent need to seal the border against imminent transnational terrorist threats, whether they involved the movement of terrorist individuals and cells, the transfer of money, the passage of weaponry, the protection of cross-border critical infrastructure, or the movement of dual-use technology. The national security prerogative behind the effort to combat terrorism at the border was based on an appreciation of the need both to protect Canada and to prevent Canada from being used as a portal to the United States, or elsewhere, for terrorist activities. Both prerogatives were ultimately written into Canada’s national security strategy framework document, issued by the Paul Martin government in April 2004.¹

The second dimension to affect an emerging post-9/11 concept of border security was a recognition of the potential, if not always real, gap between Canadian and American perspectives. A post 9/11 dialogue had to pursued between two countries with different conceptions of border security. The Canadian vision recognised the need for a tighter border, but sought to emphasise the importance of sustaining an open conduit for trade and travel, so essential to the Canadian economy. The pre-9/11 problems with the persistence of trade protectionism and border red tape, even in the NAFTA context, paled in comparison to the
impact that a fortified border might have on the Canadian economy. The American vision came
to the balance differently. Trade mattered, as did the maintenance of friendly relations with a
long-time ally and neighbour, but, as the phrase went, security trumped.

The American security imperative had the upper hand in the days immediately after
September 11. The result on the Canadian side of the border was the snared and long lines of
transport trucks, the diminution of cross-border tourism and a heavy, if short-lived, economic
impact in lost business transactions. The restoration of a greater degree of normality to the border
following September 11 was a relief, but did not undercut the message of the early post 9/11
experience. Security could really trump trade.

The Canadian government early on found itself engaged in the task of selling an image of
strengthened border security to the American public and of batting back false border threat
stories. This campaign began immediately after September 11, in the face of media concoctions
on both sides of the border that some or all of the September 11 hijackers had come from
Canada. And it has continued ever since.²

Canadian border policy in the early crisis months after September 11 was fashioned on
the need to strengthen security controls at the border and to reach a renewed understanding with
the United States about a secure and open border, open at least to the right kind of trade and the
right movement of people and goods. At the highest level, negotiations over a new framework
for the border were handled by John Manley, the Deputy Prime Minister, and his American
counterpart in charged of homeland security policy, (then Governor) Tom Ridge. Responsibility
for the American "file" in Ottawa was subtly shifted from the Department of Foreign Affairs and
International Trade (DFAIT) to the Privy Council Office, the better to serve the needs of Manley
and his negotiations. These discussions ultimately led to the signing of the Canada-US Smart
Border Declaration on December 12, 2001. The Declaration talked about the inter-relationship between public security and economic security, a theme that would persist in all subsequent discussions of Canada-US border security. It used the phrase “zone of confidence against terrorist activities” to describe the plan for the strengthened border. The Declaration came with a more detailed Action plan for implementation, which originally included 30 points, and has now risen to 32.³ With the Action plan the two governments made clear that future border security measures would be driven by a need for harmonization of policies and integrated efforts. The Action plan was based on “four pillars”: the secure flow of people; the secure flow of goods; secure infrastructure; and coordination and information sharing. All of these initiatives built on previous efforts, even the one least in the public eye—intelligence sharing.

The Smart Border Declaration was designed to reinforce and augment existing measures for protecting the Canada-US border. It served Canadian interests by demonstrating a commitment to beef up border security, while it retained a focus on facilitating the movement of people and goods. The American interest was served by this demonstration of a Canadian commitment to meet American security demands, and to work in close partnership. It might also be said that American support for a reinforced but traditional border security strategy was enhanced by the fact that US security strategy was already looking well beyond the continental boundaries of the US. By December 2001, when the Smart Border Declaration was signed the US was engaged in its campaign to destroy the Taliban regime and Al Qaeda in Afghanistan and had begun to define an offensive, forward strategy in its global war on terror. The American “border” was being moved out into the world.
Close cooperation on border security, as envisaged in the Smart Border Declaration, fed, after some delay, into major institutional reforms in the Canadian government. In December 2003, a newly installed Prime Minister, Paul Martin, announced the creation of a major new ministry, the Department of Public Safety and Emergency Preparedness Canada (PSPEPC). The stimuli behind the creation of the Public Safety ministry were in some respects similar to forces that had earlier driven the establishment of the gargantuan Department of Homeland Security in the United States. There was an equivalent Canadian need to create a department that would house and coordinate the major elements of the Canadian government’s domestic security functions. There was, equally, the requirement for stronger leadership in what, after September 11, had become a key government priority. The Public Safety department, a large and senior Cabinet portfolio, replaced a second-tier ministry, the old Department of the Solicitor General. To give added clout to the new Department, and to signal its political importance in Ottawa, the minister selected to head it, Anne McLellan, was also named as Deputy Prime Minister.

Enabling legislation for new Department, passed in the spring of 2005, spelled out the Minister’s role very broadly: “The Minister shall, at the national level, exercise leadership relating to public safety and emergency preparedness.”

While it might be easy to see the creation of the Public Safety department (with its unintentionally Orwellian title) as aping the Homeland Security initiative in the US, there were significant differences in design between the two agencies. Public Safety’s writ was not meant to extend quite so far as that of DHS, especially in the areas of immigration policy and maritime security. In the Canadian context, immigration policy functions remain vested in the Department of Citizenship and Immigration Canada. On the maritime security side, Public Safety did not incorporate the Canadian Coast Guard or significantly encroach on the existing roles of
Departments like Transport Canada and Fisheries and Oceans. Where Public Safety did represent a greater concentration of power than even DHS was in the realm of domestic security intelligence, where it assumed the old functions of the Solicitor General for the RCMP and the Canadian Security Intelligence Service, but added significant new elements of border security in the shape of the freshly minted Canada Border Services Agency (CBSA). The Canada Border Services Agency was to be the operational arm of the government when it came to monitoring and enforcement at the border—it brought a significant, and it would prove, disputatious work force into the Ministry (the border guards and customs workers).  

Public Safety was not a clone of the American DHS, but where the connecting tissue lay was in the need to have a powerful institutional structure north of the border that could interact with DHS. There had to be some kind of lego fit to smooth bilateral cooperation, and Public Safety, similar enough in mandate and representing an equivalent power on the Canadian side of the border, was to be that fit with Homeland Security.

With its control over key national law enforcement and security intelligence agencies, and over border operations, the Public Safety department was designed from the outset as the lead agency for border security. But it had to wait a bit for its marching orders to be established. Four months after the establishment of the new Ministry, the Canadian government released a significant policy document, “Securing an Open Society: Canada’s National Security Policy.” Not only was this the first attempt made by the Canadian government to define its national security priorities after September 11, it was in fact the first document ever to define Canadian national security strategy.

The National Security Policy aimed at achieving three broad goals: (1) public safety in Canada; (2) the securing of Canada against its use by terrorists as a launch pad for attacks against
allies (an implicit reference, of course, to the United States); and (3) making a contribution to
international security. The focus of the document was on the first two goals. The policy also
emphasized what can be called an “all hazards” approach to national security. It did not
prioritize threats, and steered clear of the suggestion that terrorism was of overriding concerns,
which might have made the document prone to criticisms of being too strongly influenced by
American doctrine. Instead it lumped together a wide range of threats, from terrorism to natural
disasters, organized crime and health pandemics.7

When it came to a discussion of border security, the National Security policy emphasised
the need to push ahead with work on the Smart Borders action plan, even broaden it to bring it
into line with the Canadian “all hazards” approach to national security by incorporating elements
such as food safety and public health.8 There was a suggestion of high satisfaction with the
bilateral border security relationship, evinced by the idea that Canada should work to spread the
message and “internationalize our Smart Border programs.”9 The same note was struck in a
progress report on implementation of the National Security policy, issued one year later in April,
2005.10

Domestic national security reform and attention to the bilateral Canada-US border
security framework have been the dominant modes of activity for the Canadian government
since September 11, 2001. But in March 2005, a new conceptual layer was officially added to
the mix, though it had long been under discussion in public. The concept of a North American
security perimeter was officially blessed at a trilateral leaders’ summit, held at Baylor University
in Waco, Texas. Presidents Bush and Vicente Fox and Prime Minister Paul Martin announced
the “Security and Prosperity Partnership of North America.”11
Each of the North American partners came to the concept along different vector, but the
Canadian origins of the idea were significant. The notion of a North American security perimeter
was given an initial push by the private sector, especially the Canadian Council of Chief
Executives. Its president, Tom D’Aquino, had urged the business council to take up this cause in
the aftermath of September 11. D’Aquino presented an action plan at the Canadian Council of
Chief Executives’ Annual General Meeting on January 14, 2003 and labelled the effort the
“Security and Prosperity Partnership.”12 Some of D’Aquino’s strategic plan was to find its way
into the eventual announcement of the North American Security and Prosperity partnership,
especially the emphasis on deepening economic integration and the strong inter-relationship
between the economic and security foundations of any post-9/11 relationship between the North
American states. D’Aquino saw September 11 as both a catalyst and an opportunity to move
Canada and the US into a tighter economic and security relationship. The focus was very much
on bilateral relations, but with some attention paid to Mexico, seen as a North American partner
but with a historical relationship to the US wholly different from that of Canada-US relations.
The D’Aquino action plan was also marked by a note of pragmatism, arguing against radical
changes to the political foundations of the relationship between three sovereign states and in
favour of a flexible model of bilateral and on occasion trilateral measures.

D’Aquino and the Council of Chief Executives were convinced that Canada would have
to take the lead in forging a new North American partnership. They saw themselves as fighting a
post 9/11 version of the battle over free trade that led to the Canada-US Free Trade Agreement
and ultimately NAFTA. There was some old business, particularly removing the frictions still
casioned by trade protectionist disputes, but lots of new business, including one of D’Aquino’s
five priority areas: “reinventing the border.”13 This meant going beyond the model offered by the
Smart Border Declaration of December 2001, which was seen as too rooted in tradition. Going beyond meant embracing the concept of a North American security perimeter while transforming the Canada-US border into what was called a “shared checkpoint within the Canada-US economic space.”¹⁴

The next stage in the Council of Chief Executives crusade for a new understanding of the North American economic and security relationship came with the publication of a major paper in April 2004, entitled “New Frontiers: Building a 21st Century Canada-United States Partnership.”¹⁵ With this document, the CCE continued to stress the need for a bold vision of border security, the requirement that Canada take a lead with its North American partners, and the value of a strategic approach, rather than an ad hoc effort. But the April 2004 study was also tempered by a greater realism, and some fine-tuning to match Canadian public attitudes. The earlier call for a common North American biometric identify card was dropped, for example, as inopportune. In fact what the 2004 study was doing was moving closer to a commendation of the principles of the Smart Border accord, and thus backing up what the CCE had previously decried as an overly traditional approach. The April 2004 paper also swung its attention much more firmly to the economic integration agenda, and away from ambitious plans for security cooperation. The CCE retained its call for a reinvigoration of Canadian military capabilities, but in the aftermath of the Iraq war, distanced itself a little from its early enthusiasm for a common global strategy with the United States, while stressing the need for strengthened Canadian-American continental defence cooperation. Interestingly, none of the 15 key recommendations of the April paper specifically concerned border security.

The Canadian vector to the announcement of the North American Security and Prosperity Partnership was laid, as we can now see, by a combination of factors: the success of the initial
post-9/11 round of bilateral negotiations with the United States on border security; the reordering of government institutions and the creation of a new power base for national security decision making; the spelling out of a national security doctrine, and a powerful private sector push for greater levels of economic integration and security cooperation. The Canadian path to Waco, Texas laid greatest stress on bilateral Canada-US relations, but was alive to the promise of some degree of trilateralism, and open to the suggestion that there might be areas of mutual Canada-Mexico concern, whether it be in trade flows in the automotive sector, or lessons to be learned from national approaches to border migration and anti-crime measures on our respective frontiers, or ways in which joint Canadian-Mexican demarches might have an impact on an otherwise asymmetric relationship. But it has to be said that the Canadian interest in a North American partnership remained firmly fixed on the North and on bilateral arrangements. The Security and Prosperity Partnership offered no challenges to the essential Canadian outlook. It, too, was rooted in bilateral arrangements, rather than anything more bold or innovative.

If the Waco, Texas declaration seemed of little substance, there was always the question of what next? The Leaders’ statement was little more than an indication of intent. It balanced broad statements about promoting economic well being with the promise of a “common approach to security.” Implicit in the document was a view that the three North American neighbours already possessed a shared vision of threats to security and that what needed work was the architecture of a shared response. The statement promised an ambitious agenda and set a direction, but left it to Ministerial-led working groups to come up with more concrete plans, inside an initial deadline of 90 days.

Two separate Ministerial-led working groups operated to produce the required progress reports, one focussing on the security agenda, the other on the prosperity agenda. Interestingly,
the report issued in July 2005 makes a legible distinction (at least in the English version) between “economic integration” and “security cooperation.” The reference to security cooperation is all the more important given the latitude conveyed in the Partnership agreement for the promotion of bilateral activities, with a third partner coming on board as circumstances warranted.

The Ministerial report deepened the impression that a trilateral security partnership meant less than it implied. References to initial results in the field of security focussed on bilateral arrangements, almost exclusively involving Canada and the United States. None of the agreements involved direct Canada-Mexico cooperation. It is also noticeable that discussions within the Security and Prosperity Partnership framework do not embrace the “all-hazards” approach to national security that is fundamental to the Canadian doctrine. Health security, for example, is treated, for the most part, as falling within the broad economic domain.

Much of the detail in the Ministerial report of July 2005 about security cooperation is cast in the form of good intentions and future plans, especially when it comes to any form of trilateral cooperation. The strategic emphasis in the security domain is less about integration of efforts and more about the establishment of compatible and comparable programs in all three North American states. The Ministerial progress report clearly suggests that important distinctions remain in the minds of the three North American partners between plans for increased economic integration and proposals for security cooperation. The former are marked by considerable ambition, the latter by caution. This reflects, I believe, three realities as far as security arrangement are concerned. One is that approaches to security remain firmly within the traditional domain of national sovereignty in a North American context. States will contain to make security plans on the basis of perceived national needs, with the impetus for bilateral or
trilateral cooperation flowing from that base calculation. The second reality is that North American security cooperation will proceed, as it has done in the past, on the basis of bilateral, as opposed to trilateral, arrangements. The centre of gravity of such bilateral arrangements will remain, for obvious reasons, the United States. Canada and Mexico will, for the foreseeable future, continue to manage separate security partnerships with the United States. The third, and most invisible, reality that underscores the approach taken to date in the Security and Prosperity Partnership, is that each of the North American states has a unique doctrine of national security and a different set of appraisals of fundamental threats. Mexico remains the most disassociated of the three partner states, while historical alliance connections, shared war experience, and a long established tradition of intelligence cooperation, define the intimacy of the Canadian-American security relationship.

The true weakness of the prevailing concept of a North American security partnership lies not in the ways it bows to an ambition-shackling reality, but in the manner in which its common standards approach fails to take account of the diversity of national security doctrines between Canada, the United States and Mexico, and the absence of an agreed definition of threat. The solution would seem to be obvious, but yet goes unremarked in the official discussions of the Security and Prosperity Partnership. The obvious solution is to bring the three countries together in seeking to formulate a North American security doctrine and in generating a common assessment of shared threats. Such a solution is, in my view, not directly attainable in the foreseeable future. A similar finding was reached by a C.D. Howe seminar on Canadian-Mexican relations held in April 2005, which concluded that Canadian and Mexican priorities in North America differ significantly and that only limited areas of mutual cooperation exist, at present, in the security domain.17
Is there any room, then, for a Big Idea in the realm of border security? Probably not. But there are little ideas that could have, in the long term, Big Idea consequences.

What is worth striving for within the slowly unfolding landscape of North American security is a greater level of sharing of threat assessments? There is ambition enough here. The sharing of threat assessments would be fundamentally new and would require close cooperation between the security and intelligence communities of all three countries; in effect, it would require an extension of deeply rooted Canada-US intelligence sharing practices and traditions to Mexico. The aim of such an endeavour would be to air both similarities and differences in national security outlooks on the part of the three North American states, find areas of convergence, identify mutually agreed gaps and vulnerabilities, and slowly lay the foundations for a common view on threats to national security. Without that common view, the trilateral partnership on border security has nowhere to go.

There has been some thinking done about the sharing of threat assessments, most notably in the work performed by a US Council on Foreign Relations Independent Task Force on the Future of North America. The CFR task force, like Security and Prosperity Partnership, traces it heritage back to the studies done by Tom D’Aquino’s Council of Chief Executives in Canada. In a report released on the eve of the Waco, Texas summit, the Chairs of the Task Force (John Manley for Canada, Pedro Aspe for Mexico and William F. Weld for the U.S.) called for the creation of a “common security perimeter for North America” and argued that among the steps that could be taken was the establishment of a trinational threat-intelligence center. The Task Force released a more detailed study, called “Building a North American Community,” in May of 2005, clearly hoping to influence the Ministerial working group thought processes on the Security and Prosperity Partnership. But neither the language of a common security perimeter,
nor the specific proposal for establishing a trilateral threat assessment capability, have made it into the Security and Prosperity Partnership recommendations to date.

Some hint as to why not was contained in some dissenting opinions appended to the Task Force report. One, by Thomas Axworthy, cast into doubt the benefit of a common security perimeter concept which would entail harmonization of key immigration policies, including visa and asylum procedures. Another, by Richard Falkenrath, noted that the United States would look, in particular, for real gains on the security front from a trilateral partnership and argued that “the U.S. government in particular should insist on no less than parity between the economic and security agendas.” At least in the Canadian government case, the philosophy behind the smart borders was to see security as a necessary facilitator of free trade in goods and people. Security was not, in the Canadian perspective, an end in itself, nor was it ever a “trump.”

Prospects for a genuine trilateral approach to border security in North America look set to falter at the fences of national security prerogatives and doctrine. Trilateralism will dissolve back into its constituent bilateral parts. The Council on Foreign Relations was narrowly right to see the value of joint threat assessments as an instrument within the framework of a common security perimeter, but failed to see the Catch 22. The Catch 22 is that Canada, the United States and Mexico will never get to a common security perimeter until they have a history of trilateralism in threat assessments and until that history lays the foundations in turn of congruent national security doctrines.

Assuming a start is ever made on the threat assessment front, there will remain a steep political hurdle. There will, for the foreseeable future, be a strong whiff of conspiracy surrounding the idea of trilateral border security. The threat assessment building block will never satisfy the political concern about secret sell-outs. Two illustrations will have to suffice. The
first comes in the shape of the New Democratic Party’s response to the Security and Prosperity Partnership, which the NDP critic for International Trade and Globalisation(!), Peter Julian, who attacked the scheme as the product pure and simple of the Council of Chief Executives and decried the assumption that “Canada and US interests are the same in the long run as defined by a handful of multinationals that control most of North American trade.”22 The second illustration comes from a blog by a Ph.D. student at the University of Toronto which probably captures the instinctual fears of many Canadians. Krista Boa writes “the risks to privacy and civil liberties inherent in the Canada-US Smart Borders program are more than the sum of its parts. It is an overall agenda to increase surveillance and information sharing between Canada and the United States. More attention needs to be given to Smart Borders Action Plan as a systematic program that is rapidly eroding privacy while increasing surveillance.”23

For most economic integrationists, tacking on a North American security regime seems common sense. For those opposed in Canada to greater economic integration with the United States, tacking on a security regime makes no sense. Our problem is that we can’t talk about the need for a security regime on its own terms. Four years after September 11, its not terrorists, but Big Brother, who is trying to sneak across the border of our Canadian imagination.
Endnotes


2 See, for example, the editorial by then Canadian ambassador to the US, Michael Kergin, published in the *Washington Times* on 16 January, 2003. Kergin’s article was prompted by a false story about terrorists heading into the US from Canada. He attempted to undercut the image of Canada as the “Achillees heel” of US homeland security by pointing to significant developments in Canadian national security since September 11 and the reality of close Canada-US border cooperation. Online at www.canadianembassy.org/ambassador/030116-en.asp


5 The Department of Public Safety and Emergency Preparedness has a workforce of over 52,000 civil servants and an annual budget of $5 billion. See the PSEPC web site at www.psepc-sppcc.gc.ca


7 See in particular, National Security Policy, Chapter One, “Canada’s Approach to National Security,” ibid.

8 National Security Policy, chapter 7, p. 46, ibid.

9 ibid.


13 ibid, p. 6

14 ibid., p. 7


21 ibid., “Additional and Dissenting Views. Axworthy at p. 33; Falkenrath at p. 35
