

Background

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Northern Exposure: The Right Way to Address U.S.–Canadian Counterterrorism

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Victory requires a future, and winning the long war against terrorism requires keeping America free and prosperous as much as it requires catching terrorists. Canadians harbor the same hopes for their future. This common cause can serve as the foundation for a long-term security strategy. A strong alliance requires a proactive strategy that reinforces the sovereignty of both states while strengthening the bonds of trust and confidence between them.

Regrettably, U.S.–Canadian counterterrorism strategy is not nearly as strong as it should be. Too much attention has been focused on the border between the countries and not enough on common efforts to keep foreign terrorists out of both nations and deal with domestic extremist groups. Moreover, the emphasis on security has marginalized the importance of trade facilitation, which is vital to the safety and prosperity of both countries.

A sound U.S.–Canadian strategy must give equal weight to the following priorities: securing the North American perimeter, policing the homeland and diminishing the threat of radicalization, and enhancing security at the border. However, any cooperative strategy must respect the principle of national sovereignty and uphold each nation's right to secure its border and determine its own migration and domestic security policies. U.S. and Canadian policymakers should focus on four key initiatives:

- **Promoting** private infrastructure development on the border,
- **Coordinating** visa policy initiatives,

Talking Points

- U.S.–Canadian counterterrorism strategy must be a real partnership that respects sovereignty, addresses common concerns, and keeps both nations safe, free, and prosperous.
- North America needs a broader defense structure—land, sea, and air—and robust policies that do not involve adding additional layers of bureaucracy to an already congested problem.
- U.S. and Canadian policymakers should therefore focus on four main goals: better coordination on visa policies and trade security, increased cross-border law enforcement, enhanced cooperation in maritime security, and renewed effort to spur private development of cross-border infrastructure.
- Congress has to take an active role in redefining the U.S.–Canadian relationship without imposing frivolous regulations that will infringe upon the fluidity needed at the border.
- At the same time, neither nation should compromise in any respect its sovereign responsibilities to secure its borders and protect its citizens.

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- **Building** greater capacity for cooperation in maritime security, and
- **Enhancing** cross-border law enforcement programs.

On the Perimeter

The U.S.–Canadian border is an economic engine that generates more than \$1 billion a day. Making that engine run as smoothly and efficiently as possible requires addressing problems long before they get to the border—and using sensible security measures at the border.

The starting point for any viable strategy is a consensus on securing North America from external threats. This requires a layered approach that involves assessing and protecting travelers and cargo. The United States and Canada must identify and address the vulnerabilities in their existing programs concerning visas, refugees, terrorist watch lists, and other counterterrorist surveillance.

Visas. Both Canada and the United States welcome tens of millions of visitors every year. To manage this influx more effectively, the United States relies on the Visa Waiver Program (VWP), a comprehensive evaluation system that considers a variety of factors for allowing temporary visitors to enter the country. Citizens of 27 countries are allowed to enter the United States for up to 90 days with only a passport in hand.

Canada has a similar program, also intended to enhance tourism and business while boosting national security. In addition to the 27 countries that participate in the United States' VWP, Canada extends visitor visa exemptions to 17 other countries, including Botswana, Estonia, the Republic of Korea, and Swaziland.¹ This disparity contradicts the fundamental purpose of these programs. Coordinating visitor regulations would enhance internal security for both countries and advance more stringent universal security standards for passport control.

Refugees. Canada and the United States have streamlined their respective policies for refugee claims under the Safe Third Country Agreement. Under this policy, asylum seekers must make a claim in the country where they first arrive, whether it is Canada or the United States. They can then seek asylum in the other country if they qualify under certain exceptions pre-determined by both governments.² Both countries have also launched a pilot program to share information on refugee and asylum claimants based on a comparison of fingerprint records.

Now in its third year of operation, the Safe Third Country Agreement continues to strengthen the alliance between Canadian and American officials, who are working together to determine the refugee status of asylum seekers in both countries. A potential next step could be broader asylum-sharing agreements between North American and European Union countries.

Terrorist Watch Lists. Another cause for concern is the terrorist watch list, which is large, vague, and incomplete. According to a report by the U.S. Government Accountability Office (GAO), the United States' list has swelled to about 860,000 names—a significant increase from the 158,000 names listed in June 2004. This rapid growth calls into question the standards for the inclusion process.

Even more troubling are the findings from Justice Department Inspector General Glenn Fine, who reviewed 105 records from the Federal Bureau of Investigation's Terrorist Screening Center (TSC), which oversees the watch list. He reported that 38 percent of the records had errors or inconsistencies.³

The GAO also found that U.S. Customs and Border Protection (CBP) was not able to identify the subject of a watch list record until after the individual had already been processed and admitted to the United States. The GAO attributed the incomplete

1. Citizenship and Immigration Canada, "Countries and Territories Whose Citizens Require Visas in Order to Enter Canada as Visitors," October 31, 2007, at www.cic.gc.ca/english/visit/visas.asp.
2. U.S. Citizenship and Immigration Services, "Safe Third Country Agreement," at www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543fd1a/?vgnnextoid=4dab936142dee010VgnVCM1000000ecd190aRCRD&vgnnextchannel=4dab936142dee010VgnVCM1000000ecd190aRCRD (October 28, 2007).
3. Deborah Tate, "Problems with US Terrorist Watch List Prompt Concerns," VOANews.com, October 24, 2007, at www.voanews.com/english/2007-10-24-voa68.cfm (October 29, 2007).

screening processes to the government's lack of an up-to-date strategy and implementation plan.⁴

Last year, Canada took its watch list to another level by expanding the government's authority in the Passenger Protect program. The Canadian government created a list of specified persons who it believes would pose an immediate threat to aviation security should they attempt to board a flight. Specific guidelines regarding aviation security dictate whether an individual should be added to the list.⁵

Congress needs to follow the Canadian example and impose rules that establish clear priorities for maintaining and disseminating the contents of the terrorist watch list. It should then provide opportunities for coordination with Canada's Passenger Protect program to ensure that it is as difficult as possible for terrorists to enter North America, be it through the United States or Canada.

On the Home Front

U.S. and Canadian authorities must share intelligence and law enforcement information within and along the border. To that end, the alliance should expand the Integrated Border Enforcement Team (IBET) program, a joint U.S.–Canada initiative that combines the intelligence and law enforcement capabilities of five agencies to identify and stop the movement of high-risk people and goods between the two countries.

The United States has developed Border Enforcement Security Task Forces (BESTs), which operate on the southern border with Mexico. Currently, there are five such teams, which are located in Laredo, El Paso, and Harlingen, Texas; Tucson, Arizona; and San Diego, California. The BESTs promote information-sharing and operational coordination and collaboration among the federal, state, and local agencies that combat criminal activity and violence on both sides of the border.

It is time to build on the IBET and BEST concepts and establish organizations that can address illicit activity along the northern border. For a truly com-

prehensive U.S.–Canadian counterterrorism strategy, information must be made available to those with the authority and the ability to respond. Alerts concerning internal immigration enforcement, prison security, and border security operations should be shared with federal, state, and local law enforcement agencies, regardless of the geographical focus of their responsibilities. Such coordination would cast a wider net that would strengthen both countries' ability to combat domestic terrorism and radicalization.

Cargo Screening

Beyond combating terrorism and ensuring safe travel, the third critical component of an external protection strategy is cargo screening. Approximately one-quarter of the goods imported by the United States enters through its land borders. Cargo screening is just as important at land ports as it is at maritime ports.

However, the various pre-approval programs for specific industries actually impede trade for each country. Instead of adding additional layers of government security to address the nuances of cargo screening, both the United States and Canada should employ advisory boards to streamline the process and relieve the pressure on the border and ports of entry. Pre-clearance would help to allay long wait times and provide a more effective way to perform comprehensive assessments. Once an item is screened in North America, it should not have to undergo another round of redundant screening mechanisms so long as there is open dialogue and ample information-sharing between Canadian and American agencies.

This logic could be applied to existing programs to pool resources and reduce transit times. As part of the 2001 U.S.–Canada Smart Border Declaration 30-Point Action Plan, CBP and the Canada Border Services Agency (CBSA) launched the In-Transit Container Targeting at Seaports Initiative to jointly target in-transit marine containers at the first point of arrival

4. "Terrorist Watch List Subjects Can Evade Detection, GAO Says," *National Journal*, October 24, 2007, at <http://nationaljournal.com/pubs/congressdaily/am071024.htm#11> (October 24, 2007).

5. Press release, "Canada's New Government Announces Details of Passenger Protect Program," Transport Canada, October 27, 2006, at www.tc.gc.ca/mediaroom/releases/nat/2006/06-gc014e.htm (October 31, 2007).

in Canada or the U.S.⁶ Unarmed United States Customs Service analysts are stationed at Canadian marine ports in Vancouver, Halifax, and Montréal and charged with targeting high-risk, in-transit containers for examination by Canadian customs officers. Likewise, Canadian customs inspectors are stationed in Seattle–Tacoma, Washington, and Newark, New Jersey, to target containers arriving at these ports and destined for Canada by surface transportation.⁷

Despite its success, the program has room for improvement. The In-transit Container Program would be made much more effective if it were extended to include rail shipments, with targeting and examination of high-risk containers occurring at the last point of departure from Canada. In this manner, rail cars would be allowed to proceed from a Canadian rail hub to an American rail hub without stopping for inspection at a border point.

Authorities should also simplify the newly initiated pre-screening programs. In January 2007, Canadian Prime Minister Stephen Harper approved a large spending package to strengthen security measures along the U.S.–Canadian border. In addition to arming Canadian border guards for the first time, the government will expand eManifest, an electronic manifest program jointly developed with the U.S. Department of Homeland Security (DHS) that runs computer-automated risk assessments of cargo shipments before they reach Canada. The 18,000 trucks and thousands of railroad, air, and marine cargo carriers that cross the U.S.–Canada border every day will be required to file electronic manifests before their shipments arrive. Border agents will then use this information to determine in advance whether the cargo or the cargo carriers should be further screened.⁸

Widespread implementation of eManifest began on October 15, 2007, when the CBSA stopped

accepting paper release forms from brokers and importers on most shipments. Trucking companies are urged to use electronic transmission of release documentation where available to relieve the congestion at the border.⁹ As for the United States, the CBP's Automated Customs Environment (ACE) eManifest requirement has been partially implemented at all ports of entry for land-transported cargo from Canada and Mexico and was expected to become fully operational by the end of 2007.

However, transitional periods for new border programs could seriously disrupt the flow of trade and travel at the 119 border crossings between the United States and Canada. These two programs need to be able to mitigate the existing volatility among border traffic while incentivizing the process for commercial shippers and carriers. In other words, both governments need to allocate sufficient resources so that efficiency remains a top priority.

Air and Maritime Security

The core of a North American homeland defense system is a joint investment in air and maritime security structures. By tradition, the North American Aerospace Defense Command (NORAD) is the lead agency for monitoring shared air space and protecting Americans and Canadians from air attacks, but the post-9/11 world and the creation of the U.S. Northern Command (NORTHCOM) have reconfigured NORAD's role to embrace a shared missile defense system.

The United States and Canada agreed in August 2004 that data gathered by NORAD could be used to develop a shared missile defense system. This amendment reflects the understanding by both countries that NORAD must be adapted to fit the asymmetric capabilities of constantly evolving threats. On the morning of 9/11, NORAD was con-

6. Press release, "U.S.–Canada Smart Border/30 Point Action Plan Update," The White House, Office of the Press Secretary, December 6, 2002 at www.whitehouse.gov/news/releases/2002/12/20021206-1.html (September 16, 2007).
7. Fact sheet, "In-transit Container Targeting at Seaports," Canada Border Services Agency, September 2002, at www.cbsa-asfc.gc.ca/media/facts-faits/015-eng.html (September 16, 2007).
8. Beth Duff-Brown, "Canada Unveils Border Security Plan," *The Washington Post*, January 13, 2007, at www.washingtonpost.com/wp-dyn/content/article/2007/01/13/AR2007011300207.html (July 31, 2007).
9. "PARS, RMD No Longer Accepted by Canada Customs," *Today's Trucking*, at www.todaystrucking.com/printarticle.cfm?intDocID=18576 (October 24, 2007).

ducting a routine airspace exercise designed to respond to Soviet-style bomber attacks. Today, the United States and Canada must work to develop an arsenal that can protect their citizens from the threats of tomorrow.

An enhanced maritime security strategy must also be a top priority. Previous unilateral initiatives in this area have failed to create a robust security system capable of serving both countries. Canada and the United States would benefit from a binational maritime security strategy that protects both countries while preserving their sovereignty on the seas.

The first step toward this goal would be to augment the Canadian Coast Guard (CCG) in a way that allows it to execute Canada's homeland defense functions more effectively. Canada has one of the longest coastlines in the world; at 243,792 km, it is also one of the world's longest underdefended borders. As it stands, no Canadian entity can claim ownership of the country's maritime security. A report by the Canadian Parliament's Standing Senate Committee on National Security and Defence found that the CCG is unable to play a significant role in this regard because it lacks the mandate, the experience, the equipment, and the institutional focus to do so.¹⁰

The CCG does not have a constabulary function: It is not armed; it has never engaged in any forward defense-type activity; and it operates under the Department of Fisheries and Oceans (DFO). Basic maritime security missions, such as search and rescue, interdiction, and exclusive economic zone surveillance and enforcement, have been executed by the Canadian Navy, a force that has traditionally rejected the responsibility for patrolling the littoral in favor of more overseas operations.

Though the Canadian Navy remains the lead agency in achieving greater maritime domain awareness, the scope of responsibility should be restructured to reflect capability realities more aptly.

CCG vessels lack the armaments to interdict potentially hostile ships, but it would be inefficient to task Navy ships with more patrol-based missions. Navy frigates are too big to use on littoral patrols and would be too expensive to provide the kind of coastal defense Canada needs. Additionally, the Navy's coastal patrol vessels (MCDVs) have poor sea-keeping capabilities and are too slow, with a maximum speed of 15.5 knots.¹¹

Moreover, even if the Navy had better equipment, it is still too small a force to undertake both its overseas missions and its homeland defense priorities. As of July 2006, the Canadian Navy boasted only 30 surface ships, four submarines, and 9,500 sailors.¹²

The overall maritime command structure could also be better synchronized with the rest of Canada's command forces. NORTHCOM, with the support of the U.S. Coast Guard and U.S. Navy, leads the maritime homeland security effort for the United States. Canada Command (Canada COM) is quite different. Created in 2006 to synchronize defense efforts for Canada and the greater North America, Canada COM provides a single chain of command for Navy, Army, and Air Force personnel in a domestic operation.¹³ Conspicuously absent from this structure is the CCG and a well-defined maritime focus, which can be found elsewhere under the Marine Security Operations Centres (MSOCs). These are headed by the Canadian Forces and staffed with personnel from the Canada Border Services Agency, Transport Canada, the Royal Canadian Mounted Police, and the CCG. Bifurcating these operational capabilities only impedes efforts to erect a cohesive homeland defense strategy, which cannot be achieved when key decisions are made independently of those operating in the maritime domain.

Canada should not be forced to make a trade-off between its expeditionary force and its maritime

10. *Canadian Security Guide Book, 2007 Edition—Coasts*, Standing Senate Committee on National Security and Defence, Canadian Parliament, March 2007, p. 1, at www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/defe-e/rep-e/rep10mar07-4-e.pdf.

11. *Ibid.*, p. 9.

12. CBC News, "Canada's Military: Canadian Forces in the 21st Century," July 10, 2006, at www.cbc.ca/news/background/cdnmilitary/ (October 24, 2007).

13. Canada Command, "Background," at www.canadacom.forces.gc.ca/en/background_e.asp (October 24, 2007).

security. This dilemma exists only because of the current disaggregated system. To make this system more efficient, the CCG's core competencies should be redistributed in the following ways:

- As the *Canadian Security Guide Book* recommends,¹⁴ the CCG should be removed from DFO and placed under the authority of Public Safety Canada. In this capacity, the CCG would take the lead in coordinating efforts in the maritime domain.
- The CCG should be given constabulary powers so that it is prepared to respond in potentially hostile situations.
- The CCG needs to be synchronized with the missions and commands of Canada's Navy, Air Force, and Army. It needs access to their intelligence and information-sharing system to maximize situational awareness.
- The CCG needs interoperable vessels like those in the U.S. Coast Guard's modernization program. This will allow the Canadian Navy and CCG to execute duties for homeland security and forward defense missions both efficiently and properly.

The Border of the Future

If overseas deployments and patrol of the littoral are the first lines of defense in a multi-layered maritime defense system, then border and port security are the last layers. The right strategy will require a methodical approach with measurable progress at every step to ensure that final implementation is effective.

The current trend has been to articulate broad policy goals and then approach them haphazardly, with changing requirements and arbitrary deadlines along the way. Not only does this further exacerbate congestion and trade at the borders, but it lowers the chances of having a cohesive, functioning sys-

tem before the next decade. Most important, policy-makers should view security, trade, and travel as complementary, not as trade-offs.

Relieving Pressure. The first priority should be to relieve the pressure at the border. Traffic volume at the U.S.–Canadian border has decreased since 9/11, but average wait times for vehicles have increased. This is both a byproduct of uncoordinated screening processes and a catalyst for further trade and travel delays at U.S. ports of entry.

In the past, people entering the U.S. through land crossing sites and seaports were only required to declare their citizenship orally.¹⁵ CBP officers could request a travel document for further inspection, at which point any one of 8,000 documents could be presented. In a best-case scenario, the officer was familiar with the document and quickly verified its authenticity. For a car with four or five people, this process took about 10 minutes. The greater threat arose when the officer, under pressure from mounting traffic, failed to distinguish between a valid document and a phony document.

Agencies on both sides of the border recognized this inefficiency but have been worrisomely slow to address it. Widespread implementation of the Western Hemisphere Travel Initiative (WHTI) was hampered by delays and did not come into effect until January 31, 2008. Travelers crossing the border into the United States now will be required to submit a WHTI-compliant document or at least two government-issued identification documents.¹⁶ But this alone is not enough to assuage the growing border traffic and security concerns.

The most effective way to implement WHTI rapidly is to use state-issued driver's licenses and identification cards based on common standards. Enhanced driver's licenses would change the screening process from a car-based system to a person-based system, thereby decreasing the wait time per vehicle.

14. *Canadian Security Guide Book, 2007 Edition—Coasts*, note 10.

15. Press release, "WHTI Land Sea Notice of Proposed Rulemaking Published," U.S. Department of Homeland Security, Office of the Press Secretary, June 20, 2007, at www.dhs.gov/xnews/releases/pr_1182350422171.shtm (December 3, 2007).

16. "Remarks by Homeland Security Secretary Michael Chertoff at a Press Conference on the Western Hemisphere Travel Initiative Land and Sea Notice of Proposed Rule Making," U.S. Department of Homeland Security, June 20, 2007, at www.dhs.gov/xnews/speeches/sp_1182430462235.shtm (October 26, 2007).

For the United States, this will require full implementation of the Real ID program, which provides for creating common standards. The Administration should work with the states to implement Real ID regulations and agree on a sensible contribution of federal dollars to move the program forward. Border states such as Washington, Vermont, and Arizona have already moved forward on this issue. Other states should follow suit and collaborate with their neighbors to ensure that their programs are compatible.

Improving Infrastructure. Meanwhile, the United States and Canada have underinvested in the most important component of an effective border control system: infrastructure. Investments in adequate bridges and roads leading to ports and land border crossings are vital to network-centric security.

However, the primary object should not be to harden infrastructure against terrorist attacks. Trying to turn every port and crossing site into a little Maginot Line is a losing strategy. Like the French defenses in World War II, this approach would be both overly expensive and likely to fail because an innovative enemy will find a way around the defenses. Points of entry and exit must have the physical assets to support screening; inspection; and the gathering, evaluating, and sharing of critical information.

Today, most bridges are designed for tax and duty collections. This is not realistic in the post-9/11 world. Infrastructure such as road networks that connect to rail terminals, seaports, and airports is essential to providing the capacity, redundancy, and flexibility required to ensure that the free flow of trade and travel is not disrupted in the event of a terrorist attack.

The best way to accomplish this goal is to encourage public-private partnerships (PPP) that invest in border infrastructure. The U.S. has utilized the PPP model for its public highways and other infrastructure projects. For example, the General Services Administration (GSA) owns, builds, and leases border and port entries. It develops and maintains standard processes and procedures to ensure that land

ports of entry are developed consistently and to an acceptable standard.¹⁷ Creating opportunities for the GSA, CBP, CBSA, and private firms to work together on improving the infrastructure at points of entry would be the most cost-effective and sustainable strategy for a safe and secure border.

Facilitating Trade. The final component of a sound border strategy is the unencumbered facilitation of trade. Longer waits at the border increase costs for mileage, wages, and delivery—and, subsequently, the overall shipping costs for private goods. Add to this the rising cost of border fees, and trade ultimately becomes a victim of a more secure border. A more efficient supply chain has not materialized because authorities on both sides have refused to take ownership of the issue.

Even though the Department of Commerce is the U.S. agency that is best suited to exercising jurisdiction, the mandate needs to shift to the DHS. Securing the border and protecting trade, taken together, are the means to ensuring American and Canadian prosperity. Until both issues are weighted equally, a North American security strategy remains incomplete.

Defining Proper Roles and Responsibilities

The United States can take a number of actions to address the problems outlined above. Congress has to take an active role in redefining the U.S.–Canadian relationship without imposing frivolous regulations that will infringe upon the fluidity needed at the border. Congress can advance infrastructure improvements by remedying the procedural quagmire that often stalls the process. The main problems are revolving fund availability, a cumbersome leasing process for government property, a shortfall of CBP officers, and too much investment in capital and not enough in operations.

To supplement time-intensive screening processes, Congress should invest in technology and infrastructure assessments and establish a layered management system with the following components:

- Accessible channels for international cooperation;
- Better intelligence coordination; and

17. See U.S. General Services Administration Web site, at www.gsa.gov/Portal/gsa/ep/home.do?tabId=0 (October 2, 2007).

- An “outside in” approach that allows for effective security mechanisms coupled with more freely moving goods and people.

Conclusion

U.S.–Canadian counterterrorism strategy must be a real partnership that respects sovereignty, addresses common concerns, and keeps both nations safe, free, and prosperous. North America needs a broader defense structure, and this requires a vigorous effort within and between the dimensions of land, sea, and air. It needs robust policies that do not involve adding additional layers of bureaucracy to an already congested problem.

U.S. and Canadian policymakers should therefore focus on four main goals:

- **Better** coordination on visa policies and trade security,
- **Increased** cross-border law enforcement,
- **Enhanced** cooperation in maritime security, and
- **Renewed** effort to spur private development of cross-border infrastructure.

A new landscape of threats and uncertainties requires a transformation of the North American partnership. At the same time, neither nation should compromise in any respect its sovereign responsibilities to secure its borders and protect its citizens.

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