



CANADA-US BORDER REALITIES: PRE AND POST 9/11

By Priya Kumar

ABSTRACT

Amidst considerable program policy implementation and advancement, the struggle between security and border efficiency remains a concern for both the U.S and Canada. Post 9/11 border efficiency has become fused with security – a major challenge for both commercial trade and the movement of respective citizens. This policy paper provides a synthesis of current and future challenges of Canadian-U.S border efficiency. It also provides key recommendations for policy and program implementation, a framework through which post 9/11 border thickening can be controlled.

BACKGROUND PRE AND POST 9/11

Canada-U.S. relations prior to 9/11 are best understood as a relationship of economic strength via interdependent cooperation. Agreements such as the NAFTA (1994) have increased border efficiency. The movement of goods and services, jobs, and capital pre 9/11 was done in a user-friendly and economically profitable manner. The high volume of economic interaction has been especially beneficial for Canada with trades of goods and services equating roughly \$7 billion dollars in 2000.¹ An open border has promoted a sentiment of familiarity and ease of travel between the two countries, as approximately 15 million Canadians travel to the U.S. every year.² For both Canada and the U.S., 9/11 was the catalyst for security modernization and border infrastructure development, the effect of which threatens the sentiment of familiarity and ease of travel between the two countries.

In the aftermath of 9/11, the Canada-U.S. border was highlighted as a key weakness of U.S. national security. Immediately following the attacks, the initial effects of border thickening and inefficiency took the form of border delays, which for Canadian firms dependant upon export revenue, was financially destabilizing. It became clear that Canada was very reliant upon the U.S. for economic prosperity. Specifically, 85% of Canadian trade has consistently been dependent upon U.S. firms and citizens.³



Border efficiency is fundamentally tied to Canadian economic growth. In order to mitigate economic consequences, the Government of Canada remains focused on border security, program implementation and strategic policy advancement.

It is only through collective policy and program implementation and modernization that both border security and border efficiency can be achieved. Border administration practices have fundamentally shifted in strategy. The immediate aftermath of 9/11 provided a transition period for policy adjustment and response. Canadian officials were proactive in jointly designing a policy response; this is best highlighted in the formation of the Smart Border Accord (SBA). Signed on December 12, 2001, by John Manley and Tom Ridge, the SBA strives for effective risk management through information technology techniques.⁴

Overall, 44 different agencies are now responsible for protecting the Canada-U.S. border.⁵ Government agencies have increasingly streamlined their approach. This is most visible through the interaction between the Canadian Border Service Agency (CBSA) and the U.S. Customs and Border Patrol (CBP).⁶ The SBA platform aims to separate high risk movement from low risk movement with common and compatible standards and information sharing. The SBA addresses 32 specific areas, through four concrete security pillars:⁷ the secure flow of people, the secure flow of goods, investing in secure infrastructure, coordination and information sharing in the enforcement of these objectives

The SBA has created a framework for border management centered on two pillars: risk management and delocalisation. First, the SBA has promoted risk management and intelligent filtering techniques at border corridors. Information technology, for example, can more efficiently separate low-risk from high-risk movement. Secondly, de-locating – moving border administration activities *away* from corridors – is an effective way to mitigate the cumbersome nature of the post 9/11 border security requirements. Successful risk management techniques and technologies can contribute to this activity. Efforts to de-locate border security have increasingly become a top priority for American and Canadian officials alike.

The SBA has been the major catalyst and means through which economic concerns associated with border security have gained a platform. More concretely, the SBA's strategies have provided the means by which both robust security mechanisms and border efficiency can collectively be achieved.



Through the implementation of the SBA, Canadian-U.S. border interaction has shifted from a relationship previously best characterized as friendly neighbors to one of risk management. This shift is especially apparent at border corridors, where programs such as FAST, NEXUS and WHTI have begun to play an increasingly active role in border corridor management.⁸

AN OVERVIEW OF KEY PROGRAM AND POLICY INITIATIVES

Free and Secure Trade

The Free and Secure Trade (FAST) card is a key initiative undertaken to reduce the costs of border inefficiency for commercial drivers, importers and motor carriers.⁹ FAST has become integral to the process of efficient trade between Canada and the U.S. and is a major step forward in bilateral commercial trade. As an example of delocalisation, actual verification of the data for a FAST card is done at a different time away from the physical border, increasing efficiency. There are many benefits to the FAST card, such as access to dedicated lanes allowing for faster crossing.¹⁰ Pre-approved importers, carriers and drivers save time because documents associated with shipments are sent electronically to customs officials before the truck approaches the border. Costs are reduced because of this predictability and lane filtering. With a cost of \$50 dollars and valid for 5 years,¹¹ FAST cards are a sustainable means for commercial trade to offset border thickening security policy.

Nexus

The NEXUS card was developed to mitigate the border thickening associated with increased security checks. A joint venture between CBSA and CBP, NEXUS provides individuals with the opportunity to distinguish themselves as low risk travellers.¹² Individuals who cross the Canada-U.S. border regularly find utility in obtaining the card. Applicants who successfully pass a risk assessment are able to purchase the card, allowing them access to dedicated border lanes, with automated self-serve kiosks.¹³ NEXUS cardholders are treated as pre-approved, frequent travellers, which places a relative ceiling on the amount of time spent crossing the border.



POST 9/11 BORDER REALITIES

Increased border security post 9/11 has resulted in slower crossing times. Policies and initiatives inevitably will continue to promote strict surveillance tactics, which with current infrastructure realities may compromise efficiency. The majority of border delays are the result of heavy traffic bottlenecks due to documentation glitches, long lines and low ratios of customs officers to those who are crossing.¹⁴

The full benefits of FAST and NEXUS have yet to be realized due to the insufficient number of border personnel and lanes. Pre-approved cargo shipping also has yet to be perfected. To be sure, without sufficient lane facilities, the usefulness of sophisticated policy based on risk management and information technology is limited.

Efforts have been made to improve bottlenecks: the 2003 Canadian budget allocated CAD150 million for the immediate improvement in border infrastructure in Windsor.¹⁵ In 2005, the Government of Canada announced a 5-year plan to hire an additional 270 border officials.¹⁶ Nevertheless, the functions of strategic security measures are still limited.

Despite the challenges at the border, the real volume of exports and imports between Canada-U.S. has not decreased post 9/11.¹⁷ Rather, a thickened border has served to slow down the speed at which goods cross the border. In 2003 alone, 60% of cross border commercial traffic experienced delays of up to 8 hours, (most were resolved in 1-2 hours).¹⁸ Costs of security compliance for companies have become increasingly cumbersome. Between 2001 and 2004 Ontario based firms alone lost an average of \$5.2 billion dollars a year from late deliveries and delays.¹⁹ Organizational inefficiencies are collectively costing the Canadian-U.S economy \$7.5-13.2 billion dollars a year.²⁰ This destabilizes Canada-U.S cooperation as 70% of all trade between the countries is intra-industry.²¹

The level of sophistication and organization of border security policies have primarily focused on commercial trade, neglecting the complexities associated with human travellers. Whether for business or pleasure, crossing the border for the average citizen has become complicated and confusing mostly associated with the Western Hemisphere Travel Initiative (WHTI).²² Implemented on June 1, 2009, the WHTI requires all western hemisphere citizens to present valid identification when entering the US.



Deadlines for WHTI implementation had consistently been postponed, from January 1, 2007 to January 1, 2008 and finally to June 1, 2009.²³ Proper identification includes passports, NEXUS cards, FAST cards, certificates of Indian status, enhanced driver licences, approved photo identification with citizenship proof, and in some cases birth certificates.²⁴ The continuous postponement of new restrictions has cemented the scepticism and confusion associated with border security policy. The process is further confused by the fact that the accepted documents and costs for US entry differ depending upon the avenue of entrance.²⁵

In short term, the WHTI is destabilizing as majority of citizens do not hold secure border identification. In 2005 only 34% of US residents had a passport, in comparison to 41% of Canadian residents.²⁶ Currently only Americans have access to PASS cards, a 'lighter' cheaper version of a passport. The cards cost \$55 dollars less than traditional booklet passports.²⁷ PASS cards became available on July 14 2008, and the Department of State has already received over 350,000 applications.²⁸

To the dismay of respective tourism industries, travel rates between Canada and the US in the short term will likely decrease. A study conducted by the Conference Board of Canada in 2006 estimated that decreases in US travel to Canada between 2005 and 2010 would amount to a loss in 14.1 million inbound trips (\$3.6 billion dollars).²⁹ During this time, Canadian travel to the US is estimated to decrease by 7.4 million trips.³⁰ It is anticipated that same day trips will radically decline by 5.1 million trips in the same period.³¹

ANALYSIS

Under the principles of risk management, information technology and border de-location, there are key issues that presented persistent policy challenges. Both in terms of real physical infrastructure and customs officials, basic bottlenecks must be mitigated. High levels of traffic and border line-ups hinder effective risk management techniques associated with border policies such as FAST; this is a continuing struggle. With the implementation of the WHTI land clause, border inefficiencies are likely to increase. Specific weaknesses are most visible at peak travel times and key southern Ontario corridors. Advanced policy and information technology cannot fully maximize their benefits without adequate basic facilities.



Although the pillars of the SBA are rather simple, implementation of border policy has been complex and inefficient. There is a lack of an over arching policy or department which could effectively house and organize border initiatives in a clear and concise manner. Much of this criticism emerges from WHTI, which has been unnecessarily confusing both in its regulations and execution. With its sweeping nature, the WHTI runs *against* risk management techniques.³² Moreover, for travellers, the WHTI competes with NEXUS, and regulations regarding the two are confused. In both countries the general population does not yet understand which identification cards can be used for air, land, and sea crossing.

Part of the reason WHTI execution dates have been postponed so many times is ineffective public education campaigns. This is partly due to competing campaigns between government departments such as Passport Canada and CBSA. A consensus is needed if policy is to be deemed a success. In terms of WHTI, this is not the case, especially considering the availability of PASS cards for US citizens and not Canadians.

Without the use of strategic technology, the border would likely be far thicker than it is today. Technology has become the primary vehicle through which efficient and user-friendly border crossing will likely be achieved. Although in the short run scepticism remains, technology has become internalized in border security risk management techniques. Programs such as NEXUS and FAST have their basis in technological innovation, the results of which have been a more predictable border crossing experience. For companies this has meant increased organization of administrative affairs and less time-consuming paperwork. In response to WHTI, efforts are also being made to incorporate technological advances and promote the use of enhanced drivers licenses (EDLs). Many provinces have begun discussions and feasibility studies on EDLs, for example Nova Scotia, Saskatchewan and Manitoba.³³ British Columbia is now in the process of conducting testing trials on EDLs through 521 qualified volunteer drivers.³⁴ EDLs may be a cost effective means through which individuals can cross the border and conform to the stringent reality of the WHTI. For travellers, the benefits of information technology have yet to fully be realized. However, with increased interest in EDLs, it is clear that efforts to push technology forward are being made. For the present time, technology will be the means through which border thickness can be decreased.



Budget 2008 committed \$174 million dollars (over 2 years) to Canadian-US border affairs such as equipment, infrastructure and cooperative framework funding.³⁵ Moreover, since 2000 almost \$10 billion dollars has been spent on law enforcement and border security.³⁶ Critical questions of whether or not such high levels of funding are necessary should be asked. This applies to harmonious border policy implementation and analysis debates. Are current practices producing cost-saving externalities? This is especially relevant considering the current economic downturn. In the meantime, Budget 2009 committed \$80 million dollars to the Canada-US border.³⁷ Monies were mainly allocated to corridor modernization, and infrastructure development (Peace and Blue Water Bridge in particular).

Canadian sentiment has consistently expressed a concern over US dominance. However, the fact remains that one in 25 American jobs is dependent upon open and free trade with Canadian counterparts.³⁸ Thus, while security may for the moment trump trade, American officials have a great interest in promoting efficiency at the border. Delays at the border have cost the American trucking industry \$9 billion dollars annually.³⁹ Canadian and American officials must take these realities into consideration. Cooperative and coordinated border policy is mutually beneficial.

POLICY OPTIONS

Considering the above, along with the need for effective risk management techniques, three options are suggested below:

1. Policy Enhancement via Technology – Budget 2008 committed \$7 million dollars to the implementation and introduction of EDLs,⁴⁰ which will make border crossing under the WHTI far more efficient. The Government of Canada has also set a goal of introducing a high security electronic passport by 2011.⁴¹ It is suggested that future border inefficiencies be tackled through technology as opposed to new policy development. This would effectively put a freeze on border policy implementation (with the exception of the WHTI). Efforts should be made to standardize technology use between Canada and the US. This would include the implementation of a Canadian PASS card. One of the main problems of border policy is the confusion associated with overlapping policies. Time is needed to set in current practices, highlight problems and suggest technology-based solutions. Moreover, coherent campaigns must be undertaken so



that both the trade and travel components of the Canada-US border are promoted.

This is an immediate concern, as the WHTI was fully implemented June 1, 2009. Focus should be placed on trying to solve and answer the questions and concerns of the public in a coherent way.

2. Infrastructure Investment – the real needs in terms of physical infrastructure and border officials will be fully known after the implementation of WHTI. Until then, efforts should be made to anticipate areas of contention and weakness (Southern Ontario). Also, the real capabilities of linking Canada-US roads with the railway should be further investigated. This could be especially beneficial for commercial trade. Infrastructure investment is considered to be a medium-term initiative as it yet unclear how much the WHTI will affect future border thickness in real terms.

Proactive spending on border facilities and personnel is costly and doing so without a clear indication of problems is risky. Technology investment should be the first option. If and when those techniques fail, infrastructure modernization policies could be further developed.

3. Joint Border Commission – the Canadian International Council (CIC) recommends a Permanent Joint Border Commission (PJBC) between Canadian and US border officials.⁴² The PJBC aims to remove trade barriers which hamper levels of economic interdependence between Canada and the US. Initiatives are divided into short term (improvements in security structures) and long term (trade and regulation) goals.⁴³ Initial steps in creating the PJBC put much responsibility in the hands of two high profile representatives who are given the task of developing a plan of action for border management.⁴⁴ Acknowledging the complexities of such a commission, CIC loosely suggests that representatives would then establish a framework for long term border security coordination i.e.: the PJBC.⁴⁵ Executive cabinet level officials would then take over the PJBC functions, informing relevant government officials approximately every six months.⁴⁶



Based on its complexity, the PJBC is considered to be a long-term initiative. Moreover, time frame questions emerge in relation to implementation given the fact that a new US administration has taken office and thus new relationships will need to be developed. Secondly, doubts exist when considering the asymmetrical power and influence between Canada and the US in terms of global affairs. The success of the joint commission will be dependent upon good relations between governing officials and policymakers from both countries.

CONCLUSION

In the short run, it is recommended that focus be placed upon information technologies and techniques. Since 2001, numerous border security policies have emerged – the implications of which have only recently become fully visible. Moreover, there is much more to learn about the relationship between efficiency and thickness. This is especially true when considering the potential impacts the WHTI and even the Obama administration may have on trade and travel relations. For this reason, it is advised that infrastructure and policy development proceed with caution for the time being. More time is needed to allow for an efficient and thoughtful analysis of concrete border obstacles.

Furthermore, technology allows for a cost-effective means through which border thickness can be mitigated. With current interests in enhanced driver licences and identification cards, technology is the ideal medium through which risk management techniques can be perfected. Infrastructure development will indeed be needed in the future. However, for the time being, easier methods with more visible positive externalities should be exhausted. It is recommended that a public awareness campaign be undertaken immediately to help reduce the negative effects the WHTI may have on trade and travel. These campaigns must avoid complexity and thus require departmental cooperation. Overall, the intention of technology promotion is to internalize and establish a harmonious framework through which border dialogue can occur. Cross border trade and travel will never be as it once was pre 9/11 and this must be accepted. However, through effective coordination and filtering technologies, the Canada-US border can become a key source of increased cooperation between the two countries.



ABOUT THE AUTHOR

Priya Kumar obtained her Master's degree from the Graduate School of Public and International Affairs at the University of Ottawa in 2009. Her research interests focus on migration, globalization, political economy and questions of security. For further comments or questions, please contact pkuma072@uottawa.ca.

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