

Nothing to Declare!
Canada - US Border Management After NAFTA

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Abstract

Nothing to Declare! Canada – US Border Management After NAFTA

Steve Beisswanger

The traditional role of national boundaries is undergoing significant change as countries become increasingly interdependent. Efforts to reconcile exclusionary border security practices with the economic imperatives of globalisation and regional integration challenge policy-makers in the development of effective border control strategies. As a result, the policy discourse related to borders has evolved to the level of “high politics”.

Using a process tracing methodology applied to Canada – US border management in the period following NAFTA and ending with the signature of the *Security and Prosperity Partnership of North America*, the main purpose of this essay is to determine the factors explaining the degree of integration of border management policies between both countries. The theoretical basis of the analysis relies on neofunctionalism, liberal intergovernmentalism, transgovernmentalism and realism. These theories are used to identify the key variables of interest and to serve as alternate explanations.

The findings suggest that the evolutionary process of Canada – US border policies does not precisely follow any theoretical framework. Rather, the factors influencing the level of integration of border management are driven by international security threats, international economic threats, and the interplay of powerful economic interest groups.

However, in response to an economic threat, the process predicted by liberal intergovernmentalism occurs, while in the particular case of a security-related threat, realism provides accurate insight. When both types of threat exist simultaneously, the threat considered dominant by the more powerful country drives the final policy outcome. Consequently, a continued focus by the US on “homeland security” favours a realist interpretation.

Dedication

To Emma and Ryan

I hope that the love of learning will also be a passion in your lives.

To Linda

I am very fortunate to have you as a loving and supportive wife. Thank you for your continuous patience and encouragement.

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“The most important requirement is the recognition that our destiny as a sovereign nation is inescapably tied to our geography.”¹

Allan Gotlieb
Former Canadian Ambassador to the United States
and Under-Secretary of State for External Affairs

“North America, in short, is more than an expression of geography. It is a partnership of sovereign states with overlapping economic and security interests, where major developments in one country can and do have a powerful impact on the other two.”²

“Building a North American Community”
Task Force Report sponsored by the Council on Foreign Relations

Introduction

The traditional role of national boundaries is undergoing significant change as nations become increasingly interdependent. As a result, efforts to reconcile exclusionary border security practices with the economic imperatives of globalisation and regional integration challenge policy-makers in the development of effective border control strategies. Indeed, the policy discourse related to borders has clearly evolved to the level of “high politics”.

A particular case in point is the relationship among the countries of North America that is increasingly defined by the politics of border control³. This new reality is especially apparent in the wake of the terrorist attacks in New York City and Washington D.C. on

¹ Allan Gotlieb, “Romanticism and Realism in Canada’s Foreign Policy”, C.D. Howe Institute, Benefactors Lecture 2004, Toronto, November 3, 2004, p. 39.

² Council on Foreign Relations, “Building a North American Community”, Report of an Independent Task Force, Sponsored by the Council on Foreign Relations with the Canadian Council of Chief Executives and the Consejo Mexicano de Asuntos Internacionales, May 2005, p. 2.

³ Peter Andreas, “A Tale of Two Borders – The US – Canada and US – Mexico Line After 9-11” in The Rebordering of North America – Integration and Exclusion in a New Security Context, Peter Andreas and Thomas J. Biersteker, editors, New York, Routledge, 2003, p. 3

September 11, 2001. However, a number of other continental vulnerabilities demonstrate just how closely linked the United States (US), Canada and Mexico have become. The dangers associated with problems such as mad cow disease and SARS as well as the challenges created by the August 2003 electrical blackout demonstrate quite vividly that modern threats do not stop at the boundaries one can view on a map. Consequently, these new conditions are capturing the attention of governments throughout North America. The reaction is especially apparent in the case of the US where the management of its northern and southern borders has become an intensely debated domestic public policy issue.

In general terms, the traditional economic and military functions of the border are declining. In its place, a “police border” which seeks to prevent the entry of criminal entities that are not limited to terrorism is characterising the nature of the modern border. Law enforcement is becoming the main activity surrounding the effective management of national boundaries. The new impetus of national security has led many nations to reorient their respective foreign policy agendas toward a more defensive and inward-looking stance. For instance, the focus on “homeland security” in the US has a significant influence on its military, immigration, law enforcement and especially border management policies. It has severely influenced, in turn, the decisions of policy-makers in both Canada and Mexico on a number of related issue-areas.

The dynamics of such a reaction have been well studied. When faced with a compelling rationale to act, as in an effort to assuage a common threat or to ensure one’s survival,

some nations react by jointly creating integrated political structures. The management of national boundaries is an integral feature of such a process. The most notable example of such a phenomenon exists in the European Union (EU) where, in order to ensure regional stability, the governments of the different member countries determined that it was in their best interests to pool their respective sovereignty and adopt an integrated approach to economic, political and, to an increasing degree, security policies. In the case of the EU, the approach was mainly driven by historical and geopolitical imperatives. Preventing Germany from rearming and threatening other Western European countries, ensuring economic growth in the aftermath of the two world wars and avoiding the reoccurrence of future military conflict on the continent due to ardent nationalism were considered to be the most prevalent forces to be addressed.⁴

In contrast, the North American realities have created a different outcome. The attacks of September 11 and the continued threats of global terrorism to North American territory have not compelled the nations of the region to similarly join forces in an effort to keep the continent safe from further attacks. This situation is all the more puzzling when one considers the dramatic impact the event had on the different borders. For instance, at the Canada – US border following the attacks, the US immediately moved to a “level 1 alert”. Consequently, border crossings at the Ambassador Bridge linking Windsor, Ontario and Detroit, Michigan, the most heavily travelled border crossing between both countries, were severely slowed down. The just-in-time production lines of the automobile manufacturing companies with plants located on both sides of the border

⁴ John McCormick, “The Evolution of the EU”, in Understanding the European Union: A Concise Introduction, second edition (New York: Palgrave, 2002), pp. 56-60.

were paralysed thus creating huge financial losses and in some cases causing the shutdown of certain factories⁵. As the economies of Canada, the US and Mexico became increasingly interdependent through the implementation of the North American Free Trade Agreement (NAFTA) in 1994, the debate as to whether greater integration, both at the political and economic levels, is feasible or required continues to intensify.

Within this context, border management issues have arguably become the most significant issue-area in the relationship between the US, Canada and Mexico. Border management is a highly visible political issue with a substantial influence on security and trade. Some are fearful that the ultimate casualty of this situation could be the further development and evolution of NAFTA and the overall intensity of the economic relationship. Opportunities for deeper continental integration (or for that matter, simple cooperation) could be seriously influenced by a shift toward more inward-looking national priorities linked predominantly to security.

The main purpose of this essay is to determine the factors explaining the degree of integration of border management policies between Canada and the US. The current *Smart Border Agreement*, signed in December 2001, is characterised by cooperative measures aimed at ensuring the free passage of legitimate goods and individuals while preventing the entry of ill-intentioned organisations or illegal migrants. In comparison to the EU, Canada and the US adopted a cooperative framework to address technical and functional issues related to border control processes rather than an integrative approach emphasising a more strategic outlook to its common boundaries. Why have Canada and

⁵ Peter Andreas, "A Tale of Two Borders – The US – Canada and US – Mexico Line After 9-11", pp. 9-10.

the US avoided a more integrated approach to managing the border in light of the high degree of economic interdependence? This is essentially the puzzle that this thesis attempts to solve. Are the reasons explaining such a situation linked to the absence of an institutional structure to support an integrated border? Are the political cultures in both countries so divergent as to limit the degree of cooperation for fear that policy convergence could spread to social issues? How influential are non-governmental actors in the determination of border security processes? Are the impending threats viewed differently in both countries? Is the smart border approach merely a cooperative framework masking the imposition of policies mandated by the more powerful partner? Is the smart border approach a sustainable border management model in the case of future large-scale terrorist attacks occurring on American soil? With the number of private and business-related border crossings increasing, is it not more efficient to simply eliminate the border and jointly create a hard perimeter around both countries? What is the influence of the domestic political environment on the decision-making process of governments with respect to issues of national sovereignty? In all of these interrogations, the dependent variable (DV) is the degree of integration of border management policies.

Using a process tracing methodology, I will determine whether the theoretical frameworks normally used to understand regional integration, offer any assistance in answering the above-mentioned questions. Specifically, neofunctionalism, liberal intergovernmentalism, transgovernmentalism and realism are explored. These theories have a dual purpose in this analysis. First, they will be used to identify the key variables of interest in the case analysis. Second, they will serve as alternate explanations to the

findings that will emerge from the process tracing exercise. As a by-product of contrasting these different theoretical frameworks, I will also explore whether the path leading to the development of the current status of Canada – US border management policies provides any insight into the prospect of further regional integration.

Some analysts suggest that because of the asymmetrical relationship that exists between Canada and the US, there is no similar example for comparison.⁶ However, the experience leading up to the full implementation of the EU as well as the theoretical foundations that attempt to explain its development arguably have comparative value for the North American case. While it is true that the situation in Western Europe was characterised by a commonly accepted imperative to begin an integrative process following the Second World War, the situation on the North American continent has some similarities in that economic and security concerns are characteristic of both scenarios. In addition to global terrorism, North America is now facing increased economic challenges from China and India. Some would say that the political aspect of this situation faces an irreconcilable dichotomy that could potentially be addressed only through greater integration.

The targeted cooperation that has thus far characterised the current border arrangement is focused on technical issues. It underlies a desire by each country to maintain its own border controls, albeit in a more efficient manner. As the business lobby in both countries

⁶ Alejandro Chanona, "Is There a Comparative Perspective between the European Union and NAFTA?", United Nations University, Comparative Regional Integration Studies, UNU/CRIS e-Occasional Papers, 2003, p. 4. The paper was accessed at <http://www.cris.unu.edu/pdf/Alejandro%20Chanona%20OP1.pdf> on March 10, 2005.

advocates the need for the elimination of the border, the security concerns of the US government and the sovereignty concerns of Canadians result in a framework that focuses on the technical issues that seek to improve efficiency of border crossings while preventing the entrance of criminal entities.

Border management is increasingly taking on the role of a campaign against crime. As suggested by Peter Andreas, “*more intensive border law enforcement is accompanying the demilitarization and economic liberalization of borders.*”⁷ From a foreign policy standpoint this means ensuring Canadian access to the American market (an economic condition) by constantly reassuring the US of its commitment to prevent drugs and terrorists from entering the country from the North (a security condition). This balancing act must be accomplished by constantly taking measures to protect Canadian sovereignty (a domestic political issue). Moreover, the primary focus of US decision-makers on security leaves little room for meaningful discussions on deeper integration. Thus, with respect to border management, the relationship is influenced by each country’s interests. A different view of the current arrangement between Canada and the US suggests that the smart border approach is merely a status quo situation. In the event of another large scale attack in the US, the border management approach would quickly move to a different model, depending on whether the attack was in any way linked to border failures on either the Canadian or Mexican side.

⁷ Peter Andreas, “Redrawing the Line – Borders and Security in the Twenty-First Century”, *International Security*, Vol. 28, No. 2 (Fall 2003), p. 78.

The paper is divided into four sections. First, following the introduction, I will review the pertinent literature concerning both the theories applied in the analysis as well as the border management-specific work. Second, the research design will detail the methodology, sources and case selection. Possible applications to other scenarios as well as opportunities and directions for further study are also suggested in this section. Third, the case analysis is outlined in specific detail along with the associated findings. This section is subdivided into two different parts. First, a detailed narrative of the different political events characterising the evolution of border management policies between Canada and the US is developed with an emphasis placed on extracting the most salient elements that explain the level of integration of border policies. Second, the different theoretical frameworks are applied to the narrative in an effort to establish their applicability to the particularities of the case.

The key finding of the analysis suggests that the degree of border management integration is driven by particular conditions – international security threats, international economic threats and the interplay of powerful economic interest groups, both at the domestic level and developed through transborder coalitions. From a theoretical standpoint neofunctionalism is indeterminate and transgovernmentalism provides insight with respect to the implementation of policies. Liberal intergovernmentalism is especially pertinent in the case of an economic threat while realism applies best in the context of a security-related threat. Finally, in the fourth section I provide concluding comments and specify the implications of these findings on the use of regional integration theories in

general as well as outline the prospects of further regional integration on the North American scale.

Literature Review

The regional integration literature is heavily influenced by the history and ongoing developments in the EU. In an effort to better understand the specific approach adopted by the governments of Canada and the US in terms of the management of the border, this paper seeks to apply some of these theoretical constructs to the situation prevailing in North America.

In this section, I clarify and highlight the most pertinent aspects of this voluminous theoretical background by proceeding in five specific steps. First, as the history and geopolitical realities of the EU and North America are very different, it is necessary to describe the main features that differentiate both regions and that account for the presence of a politically integrated approach in the EU as opposed to an economic-specific cooperative arrangement in North America. Second, I provide a description of the regional integration literature supporting the theoretical frameworks with an emphasis on the predictions of these theories with respect to the *Canada – US Smart Border Agreement*, the bilateral border management arrangement currently in effect. Third, in consideration of the natural propensity of political scientists to seek an explanation to real life political situations, I highlight an alternate approach to explain the research puzzle,

an approach that amalgamates different theoretical frameworks. Finally, the policy-specific border management literature is surveyed.

Oceans Apart – A Tale of Two Regions

A clear rationale for the countries of Western Europe to re-establish a collective position on the world stage emerged from the ashes of two horrible world wars. An imperative to ensure a certain level of internal stability existed among this group of nations to prevent the resurgence of a dangerous German state. The early discussions on the need for further European integration rested on the common desire to enhance postwar economic development, the need to prevent excessive nationalism from igniting another large military conflict and “*the need for security in the face of the threats posed by the Cold War.*”⁸ Therefore, the imperative to act in a cooperative manner was driven by a combination of security and economic realities. The situation in North America was not characterised by the same urgency.

The historical development of the EU cannot be dissociated from the significant role of the US. As the preponderant nation separated by an ocean and, with the exception of Pearl Harbour, untouched by the devastation of the battlefield, the US was undoubtedly opportunistic in ensuring that both its economic and strategic interests were adequately protected in the aftermath of World War II (WWII). In this respect, the European Recovery Program, better known as the Marshall Plan, provided a catalyst in establishing

⁸ John McCormick, “The Evolution of the EU”, in Understanding the European Union: A Concise Introduction, second edition (New York: Palgrave, 2002), p. 56.

the early roots of Western European integration while providing the US with some key geopolitical advantages in the early stages of the Cold War. For the purpose of managing the US\$12.5 billion in aid disbursed between 1948 and 1951, the Organisation for European Economic Cooperation (OEEC) was established, marking the beginning of pan-European institutionalisation.⁹ Without the catalytic effect of the Marshall Plan, it can be argued that integration would not have been possible since the actual economic survival of Europe would have been in doubt.

It was not until the *Treaty of Paris* in 1951 and the establishment of the European Coal and Steel Community (ECSC) that the movement toward greater integration was formalised. It was also, more significantly, “*the first time that any European government had given up significant powers to a supranational organisation.*”¹⁰ With the seeds of integration now firmly planted in the political psyche of Western European leaders, the evolution toward deepening and widening interrelations progressed at the rhythm of a pendulum. One pole is dominated by the strength of individual national interests while the other is characterised by a search for advantages that reward the group as a whole, including considerations with respect to the admission of additional members to the Union.

The early stages of integration were clearly focused on economic benefits. *The Single European Act* of 1986 enshrined the establishment of a joint economic and trading community (the largest at the time) and the common objective of eventually achieving

⁹ Ibid., p. 61.

¹⁰ Ibid., p. 67.

full monetary union. Further integration was pursued with the 1992 *Treaty on European Union*, better known as the *Maastricht Treaty*, where the three pillars of the EU were developed: the three existing communities of economic, coal and steel, and atomic energy, a Common Foreign and Security Policy (CFSP), and Justice and Home Affairs (JHA).¹¹

The EU is by far the most advanced and fully integrated regional political entity the world has ever known since the emergence of territorial sovereignty. Through the European Parliament it is also a political arrangement that is accountable with respect to the membership's electorate. This confers onto the organisation a more extensive degree of integration than that of a mere regional economic and trading regime. Its existence is the result of an evolutionary process that started over half a century ago amidst very particular conditions, namely a commonly shared imperative to act and the catalytic effect of the US. Whether the current status of the EU can ever be duplicated in North America is a key question now being debated among analysts and policy-makers. This is especially true in the context of ongoing threats of global terrorism, and the emergence of border control as a *stand-alone* policy area.

At the centre of this debate is the consideration that the relationship between the countries in North America is radically different. Characterised by the dominance of one of the countries, there has been no strong imperative to consider a high degree of integration beyond economic issues. The economic and military might of the US dwarfs the combined resources of Canada and Mexico. For example, from an economic standpoint,

¹¹ Ibid., p. 78.

the US produces 88% of North America's Gross Domestic Product (GDP) while in Europe, Germany accounts for 29.5% of the Eurozone's GDP.¹² It is clear that with such an unbalance in size and power, issues of interest to the US are prone to dominate the North American agenda¹³.

However, notwithstanding different levels of development, the three countries have adopted a cooperative economic framework under the provisions of NAFTA. The main objective of NAFTA was the creation of an economic and trade entity capable of competing within the triad composed of the US, the EU and Japan. Specifically, the US sought greater access into the Mexican market while attempting to stem the flow of illegal immigrants across its southern border. Mexico was intent on accelerating its domestic transition from a state-controlled economy to a more open market economy. Canada's rationale was more "defensive", aimed at ensuring preferential access to the American market for its producers and manufacturers.¹⁴ However, the mutual benefit of the arrangement is that these countries could, *together*, counter the growing economic influence of the EU. It is important to note that none of these countries entered the agreement "*with the objective of creating a political or social union on the North American continent.*"¹⁵ It is clear from the outset, the justification for the agreement was

¹² Conference Board of Canada, "In Search of a New Equilibrium in the Canada-U.S. Relationship", February 2005, p.26.

¹³ James Laxer, The Border – Canada, the U.S. and Dispatches from the 49th Parallel, (Toronto: Anchor Canada, 2004), p. 262.

¹⁴ Lloyd Gruber, Ruling the World – Power Politics and the Rise of Supranational Institutions, (Princeton, New Jersey: Princeton University Press, 2000), p. 97. See also Axel Huelsemeyer, "Toward Deeper North American Integration: A Customs Union?", *Canadian – American Public Policy*, Number 59, October 2004, p. 6.

¹⁵ Frederick M. Abbott, "NAFTA and the Legalization of World Politics", *International Organization* 54, 3 (Summer 2000), p. 522.

founded purely on economic grounds. In this respect, it differs substantially from the EU where greater economic integration was a step toward greater political cohesion.

The North American context is also characterised by a small number of nations, a situation that exacerbates the dramatic asymmetries in influence, power and resources. Some authors have suggested that disparities among partners, in terms of economic capabilities, are of prime importance to further understanding the difference between the EU and NAFTA. *“The remaining large gap in overall economic capabilities between the United States and its partners in NAFTA compared to the gap between Germany and its EC partners may help explain why NAFTA remains focused on trade while the EC is expanding to new issue-areas.”*¹⁶

In relation to security, an issue-area directly influenced by decisions on border management and control, both Canada and Mexico comfortably benefit from safe shelter in the shadow of the American military hegemon. In this regard, North American countries have never been confronted with the need to pool their sovereignty in an effort to counter an external security threat. It is therefore of little surprise that NAFTA is often viewed as a mere combination of two bilateral economic agreements centered on the US.¹⁷ Walter Mattli believes that, to be successful, a regional integration scheme needs to be driven by “strong market pressure” and have an “undisputed” leader in the area, all

¹⁶ Joseph M. Grieco, “Systemic Sources of Variation in Regional Institutionalization in Western Europe, East Asia, and the Americas”, in Edward D. Mansfield and Helen Milner, eds, The Political Economy of Regionalism (New York: Columbia University Press, 1997), p. 183.

¹⁷ Peter Hakim and Robert E. Litan, “Introduction” in The Future of North American Integration Beyond NAFTA, Peter Hakim and Robert E. Litan, editors (Washington, D.C.:Brokings Institute Press, 2002), p. 2.

under the umbrella of “commitment institutions”.¹⁸ While both the EU and NAFTA possess these characteristics, the main condition underlying the justification for NAFTA does not include the threats to survival that confronted Western Europe in the aftermath of WWII. Moreover, the dominant status of the US on the North American continent is clearly unchallengeable. Unlike the common impetus to disarm Germany after the war, Mexico and Canada cannot formulate any convincing arguments that would justify, in terms of either economics or security, the need for the US to seek deeper political integration¹⁹.

However, the security threats affecting the continent today are different from the traditional state-sponsored threats leading to conventional military threats. The modern challenges to national security are more subtle. Therefore, in order to maintain the benefits of economic integration, the security imperatives that threaten the region (and by association the trade agreement) must now be considered in any future border arrangement. Therefore, the main puzzle is why this is not occurring in a more integrated fashion.

¹⁸ Walter Mattli, “Explaining Regional Integration”, in The Logic of Regional Integration: Europe and Beyond (Cambridge, MA: Cambridge University Press, 1999), p. 43.

¹⁹ The validity of such an argument is influenced by at least two key considerations. First, NAFTA involves a smaller number of countries therefore making it difficult to mount a serious continental coalition. Second, the geographical isolation of Canada and Mexico can impede their respective ability to jointly act in an effort to persuade the US.

The Challenges of a Rich Theoretical Base

There are numerous theoretical concepts that attempt to explain the conditions and forces leading to regional integration. Four different theoretical frameworks will be analysed, two that have been developed and applied to the EU - neofunctionalism and liberal intergovernmentalism - as well as two other general theories of international relations - transgovernmentalism and realism. These theories will provide insight into the situation affecting the degree of integration of Canada – US border management policies and assist with the identification of key variables to consider in the case analysis.

In order to compare the four theories and assess their respective predictions, a number of dimensions related to the overall relationship between Canada and the US are considered. These reflect some of the key characteristics on which the theories listed above are based and serve as a guide to understanding the different nuances of the theories. They include: the presence of a commonly perceived imperative to act, the existence of an institutional framework, the role of the state, the importance of power in the relationship, the influence of domestic politics (i.e. interest groups, bureaucratic actors, other non state actors), the importance of individual state interests and, the process through which regional integration expands.

Neofunctionalism

Early attempts to explain European integration were based on neofunctionalism. The main figure of this school of analysis was Ernst B. Haas who described integration as a process whereby “*political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new center, whose institutions possess and demand jurisdiction over the preexisting national states. The end result of a process of political integration is a new political community, superimposed over the preexisting ones.*”²⁰ In this regard, neofunctionalism is considered a “pluralist theory of international politics”. It does not assume the state to be a “single unified actor” and, in terms of its role, it is “not the only actor on the international stage”.²¹

According to Stephen George and Ian Bache, there are four key parts to neofunctionalism. First, the concept of “state” is more complex than the “black box” or “billiard ball” metaphor used by realists as there are other actors who interact and influence policy outcomes. Second, the scope of activities of interest groups and bureaucratic actors extend beyond the realm of the domestic political arena. Third, non-state actors are considered to be important players in international politics. Fourth, European integration advances through the “spillover” effect.²²

²⁰ Ernst B. Haas, The Uniting of Europe: Political, Social and Economic Forces, 1950-1957, (Stanford, California: Stanford University Press, 1958), p. 16.

²¹ Stephen George and Ian Bache, “Theories of European Integration”, in Politics in the European Union (New York: Oxford University Press, 2001), p. 9.

²² *Ibid.*, p. 9

The main players in the integration process are members of the political elite, the leaders of the relevant political groups who “*habitually participate in the making of public decisions, whether as policy-makers in government, as lobbyists or as spokesmen of political parties.*”²³ These actors make contact with their counterparts in other countries and forge cross-border connections along the lines of particular issue-areas. The main objective of these transborder linkages is to shape the values of various domestic groups within the country as well as the views of office-holders. This complex interaction, if successful, ultimately leads to a shift in beliefs. Haas describes the process as follows:

*“The decision to proceed with integration or to oppose it rests on the perception of interests and on the articulation of specific values on the part of existing political actors...As the process of integration proceeds, it is assumed that values will undergo change, that interests will be redefined in terms of a regional rather than a purely national orientation and that the erstwhile set of separate national group values will gradually be superseded by a new and geographically larger set of beliefs.”*²⁴

The transfer of support from nationally-based interests to supranational priorities enshrines the view that the integration process needs to be centrally-managed. As a result, other issue-areas not contemplated in the initial integration plan are influenced by the norms of this new type of cooperative arrangement. In order for the initial benefits of integration to be sustained, the process must expand and deepen. The concept of “spillover” is an essential element in describing the process through which regional integration gains momentum and expands to include other related areas of public policy. Leon Lindberg has described spillover as a situation in which “*a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions, which in turn creates a further condition and a need for more*

²³ Ernst B. Haas, The Uniting of Europe: Political, Social and Economic Forces, 1950-1957, p. 17.

²⁴ *Ibid.*, pp. 13-14.

action, and so forth.”²⁵ As the main driver of the integration process, spillover, once it has begun, can progress from issues related to “low politics”, such as economics and trade policy, to “high politics” such as security and defence.

The essence of the link between Canada and the US is the interdependent nature of its trade relationship. It is therefore expected, under neofunctionalism, that interest groups and other bureaucratic actors working on cross-border issues create the demand for border management policies in support of the trade relationship. Moreover, the integration process could also include the assignment of a supranational entity to manage this part of the relationship. However, this is not a necessary outcome. It is quite possible that while political elites in both countries are successful in altering the beliefs and values associated with the border, the necessity to centrally-manage border controls might not inevitably be the final outcome. In this respect, a neofunctionalist interpretation would suggest that the management of the border seeks to *enhance* the development and expansion of the economic relationship existing between both countries. This is accomplished through border control processes that *facilitate* the trading relationship while maintaining national security, all within a context where there is no pooling of sovereignty. It is argued here that such a dynamic is still consistent with the spillover effect, the establishment of specific steps that are necessary for the integration process to continue and possibly deepen.

²⁵ Leon N. Lindberg, The Political Dynamics of European Economic Integration, (Stanford: Stanford University Press, 1963), p. 9.

In North America, the integration process has not yet expanded beyond the economic and trade domains. The key question to answer in the context of a neofunctionalist explanation is whether there is a spillover relationship among issue-areas that are adjacent to border management. Where functional linkages exist between these issue-areas, one could therefore observe a widening of the scope of integration resulting in the inclusion of issue-areas that go beyond trade and economics to possibly include issues of high politics. However, wider *geographical* expansion of the continental economic relationship could occur prior to an increase in the number of issues included within the integration process.

The economic relationship between Canada and the US has a long history. In the context of the negotiations leading to the Canada - US Free Trade Agreement (CUSFTA) in 1984 followed by NAFTA in 1994, the successful achievement of the Free Trade Area of the Americas (FTAA) could be viewed as the next logical step from a regional integration perspective. However, in all of these regional economic arrangements, the importance of border management is significant. A neofunctionalist view expects the border management process to be driven by interests groups involved in transborder business seeking to establish a border control process that limits costs and speeds up the movement of goods and people between countries. In most cases, the final policy outcome will reflect the interests of the most influential interest groups.

There is no doubt that the presence of a supranational entity for border management would occur simultaneously with a high level of integration of border policies. Should

Canada and the US agree to have a separate entity manage its common border, one would expect a high level of centralisation of other policy areas to occur by virtue of the spillover effect. Over time, issue-areas such as immigration and the free movement of labour would be included. However, as the relationship has not yet evolved from an economic cooperative arrangement, it is doubtful that such a politicised issue-area will lead to a voluntary shifting in loyalties to a supranational framework.

The main criticism of neofunctionalism is that the case of the EU is treated as a *sui generis* phenomenon and therefore lacks any potential to be generalised to other situations or scenarios. Andrew Moravcsik characterises neofunctionalism as “*both oddly apolitical and lacking in any aspiration to generality, in that it advances long-term predictions about the future of the EC without underlying, more specific theories that identify the decisive determinants of politicians’ choices among competing alternatives.*”²⁶

Liberal Intergovernmentalism

Andrew Moravcsik also suggests that neofunctionalism “*failed to generate an enduring research program because it lacked a theoretical core clearly enough specified to provide a sound basis for precise empirical testing and improvement.*”²⁷ In order to address this shortcoming, Moravcsik proposes an alternate theory where the EU is seen as “*an international regime of policy coordination, the substantive and institutional*

²⁶ Andrew Moravcsik, “Preference and Power in the European Community: A Liberal Intergovernmentalist Approach”, *Journal of Common Market Studies*, Volume 31, No. 4, 1993, p. 477.

²⁷ *Ibid.*, p. 476.

*development of which may be explained through the sequential analysis of national preference formation and intergovernmental strategic interaction.”*²⁸ This approach emphasises the role of both domestic players *and* national governments in the determination of state preferences. While such preferences are determined with the input of both groups, the “politicisation” of the issues is assured by the national governmental representatives through intergovernmental bargaining. The final agreement can then possibly be “locked-in” via the role of a supranational entity. In more specific terms, at *“the core of liberal intergovernmentalism is three essential elements: the assumption of rational state behaviour, a liberal theory of national preference formation, and an intergovernmentalist analysis of interstate negotiation.”*²⁹

The concept of state rationality within liberal intergovernmentalism differs from the traditional realist and neorealist perspectives where interests are narrowly associated with “wealth, security or power”.³⁰ Rather, governments are believed to *“act purposively in the international arena, but on the basis of goals that are defined domestically.”*³¹ The components of the liberal intergovernmentalist view interact as per Robert Putnam’s “two-level game” in which national governments negotiate international agreements within two specific settings.³² These settings are consistent with a bottom-up process. The bottom level includes the domestic constituencies who participate in the development and expression of the national preferences and who ultimately ratify the

²⁸ Ibid., p. 480.

²⁹ Ibid., p. 480.

³⁰ Ibid., p. 481.

³¹ Ibid., p. 481.

³² Robert D. Putnam, “Diplomacy and Domestic Politics – The Logic of Two-Level Games”, *International Organization* 42 (Summer 1998), pp. 427-460.

final settlement. The top setting is comprised of international counterparts with whom an agreement is negotiated (i.e. other governments). In this fashion, liberal intergovernmentalism “*integrates within a single framework two types of general international relations theories often seen as contradictory: a liberal theory of national preference formation and an intergovernmentalist analysis of interstate bargaining and institutional creation.*”³³

The theory of national preference formation is inherently liberal. Private individuals and voluntary associations with autonomous interests interact with the heads of national governments who are responsible for determining state priorities and policies. In essence, “*groups articulate preferences; governments aggregate them.*”³⁴ Moravcsik describes the process leading to the development of national preferences and the subsequent activities of governmental representatives during international bargaining as follows:

*“The primary interest of governments is to maintain themselves in office; in democratic societies, this requires the support of a coalition of domestic voters, parties, interest groups and bureaucracies whose views are transmitted, directly or indirectly, through domestic institutions and practices of political representation. Through this process emerges the set of national interests or goals that states bring to the international negotiations.”*³⁵

The willingness of nations to enter into cooperative arrangements is influenced by the gains or losses achieved through intergovernmental bargaining. The main criterion used to evaluate the value of bargaining outcomes is based on the nature of international externalities defined as situations “*where the policies of one government create costs and*

³³ Andrew Moravcsik, “Preference and Power in the European Community: A Liberal Intergovernmentalist Approach”, p.482.

³⁴ Ibid., p. 483.

³⁵ Ibid., p. 483.

*benefits for politically significant social groups outside its national jurisdiction.*³⁶ The nature of the interaction itself is characterised by the relative bargaining leverage of the countries involved in the negotiation process. Specifically, *“bargaining leverage stems most fundamentally from asymmetries in the relative intensity of national preferences, which reflect the relative costs and benefits of agreements to remove negative externalities.”*³⁷ Moravcsik also considers the assumptions of a *“non-coercive, information-rich, deliberative and institutionalised setting”* as the basis for a bargaining setting that is efficient and where issues are resolved in a *“Pareto-optimal”* fashion.³⁸ Under such conditions, Moravcsik specifies three determinants of interstate bargaining.³⁹

First, *“unilateral policy alternatives and threats of non-agreement”* are based on the availability of options or alternatives that are more desirable than cooperation.⁴⁰ *“The simple, but credible threat of non-agreement – to reject cooperation in favour of a superior alternative – provides rational governments with their most fundamental form of bargaining power.”*⁴¹ Proceeding unilaterally is the most basic type of alternative. Ironically, its main driving factor borrows from some of the concepts found in realism, in particular relative power and asymmetrical interdependence.⁴² Therefore, this alternative is available, for the most part, to powerful states only.

³⁶ Ibid., p. 485.

³⁷ Ibid., p. 499.

³⁸ Ibid., p. 499.

³⁹ Ibid., p. 499.

⁴⁰ Ibid., p. 499.

⁴¹ Ibid., p. 499.

⁴² This type of bargaining leverage is reminiscent of the concept of *“go-it-alone”* power outlined by Gruber. This particular form of realism will be developed later in the section.

Second, *“the existence of opportunities to form attractive alternative coalitions (or deepen existing ones), while excluding other parties, strengthens the bargaining power of potential coalition members vis-à-vis those threatened with exclusion.”*⁴³ As with the first condition, such coalitional dynamics tend to favour the larger and more powerful states whose participation within a coalition is deemed to be essential. In fact, a government may seek to avoid exclusion even if this leaves it *“worse off in absolute terms than the status quo.”*⁴⁴

Third, the potential for “compromise, side-payments and linkage at the margin” rely on the fact that, in some cases, governments have “differential preference intensities” across issues, with marginal gains in some issue-areas being more important to them than to other governments.⁴⁵ As a result, *“it may be to the advantage of both parties to exchange concessions in issue-areas about which their preferences are relatively weak for concessions in other areas about which they care about.”*⁴⁶ The major limitation to such a strategy stems from possible domestic opposition. *“Where domestic gains and losses produced by linkage are only imperfectly fungible through compensation across issues, linkage becomes a complex and politically risky strategy.”*⁴⁷ In certain cases, Moravcsik believes that side-payments, whether financial or symbolic, can be used instead of linkages in order to achieve a bargaining outcome.

⁴³ Ibid., p. 502.

⁴⁴ Ibid., p. 503. This condition is also very similar to the premise conveyed by Gruber’s “go-it-alone” power.

⁴⁵ Ibid., p. 505.

⁴⁶ Ibid., p. 505.

⁴⁷ Ibid., p. 505.

In contrast to the spillover effect, Moravcsik assigns greater importance to the autonomy of national leaders in the process of regional integration. In conjunction with this, he writes that intergovernmental institutionalism “*accords an important role to supranational institutions in cementing existing interstate arrangements bargains as the foundation for renewed integration.*”⁴⁸

As opposed to neofunctionalism, maintaining sovereignty is a key consideration for liberal intergovernmentalists by virtue of the more significant role of national governments in the integration process. Once national preferences are set, governments are responsible for aggregating them and acting in a decisive way on the world stage through interstate bargaining in order to achieve policy outcomes consistent with these preferences. As such, while border management policies could be relegated to a supranational entity (possibly a reworked and increasingly empowered NAFTA), government actors are expected to work in a way that ensures the preservation of national interests. This translates into an agreement that must simultaneously meet the security concerns of the US and the preservation of continued access to the American market for Canadian producers. As a result of this two-step process, the level of border management integration is directly related to the demands of the *most influential* interest groups.

⁴⁸ Andrew Moravcsik, “Negotiating the Single European Act”, *International Organization* 45, 1 (Winter 1991) p. 56.

Transgovernmentalism

The mechanism of regional integration, according to some analysts, can evolve at the sub-cabinet level of governmental organisations. This level is more operational than it is policy-driven. It is also specialised in a particular issue-area. As opposed to realism and liberal intergovernmentalism, transgovernmentalism does not view the unitary state as the key player in the development of policy. Rather, it suggests that policies are achieved through the interaction of networks of subgovernmental entities specialised in particular issue-areas.

Robert Keohane and Joseph Nye make a clear distinction between “transgovernmental” approaches and the intergovernmental framework explored thus far. More precisely, they define transgovernmental relations as “*sets of direct interactions among sub-units of different governments that are not controlled or closely guided by the policies of the cabinets or chief executives of those governments.*”⁴⁹ Anne-Marie Slaughter builds on the concept proposed by Keohane and Nye to describe a “New World Order”. She writes that “*the state is not disappearing, it is disaggregating into its separate, functionally distinct parts.*”⁵⁰ The main premise of Slaughter’s argument derives from her view of the modern state.

“The conception of the unitary state is a fiction, but it has been a useful fiction, allowing analysts to reduce the complexities of the international system to a relatively simple map of political, economic, and military power interacting with one another both directly and through international

⁴⁹ Robert O. Keohane and Joseph S. Nye Jr., “Transgovernmental Relations and International Organizations”, *World Politics* 27, 1 (October 1974), p. 43.

⁵⁰ Anne Marie Slaughter, “The Real New World Order”, *Foreign Affairs* 76, 5 (September/October 1997), p. 184.

*organizations. But today it is a fiction that is no longer good enough for government work. It still holds for some critical activities such as decisions to go to war, to engage in a new round of trade negotiations, or to establish new international institutions to tackle global problems. But it hides as much as it helps.”*⁵¹

As a replacement to the traditional view of the state holding a dominant role in international relations, Slaughter describes the transformation that is occurring as follows: *“I am not arguing that a new world order of government networks will replace the existing infrastructure of international institutions, but rather complement and strengthen it.”*⁵² She defines a transgovernmental network as a *“pattern of regular and purposive relations among like government units working across the borders that divide countries from one another and that demarcate the domestic from the international sphere.”*⁵³ These networks are of three different types: informational, enforcement and harmonization. Harmonization networks *“involve the adoption of an international standard that adjusts the regulatory standards or procedures of two or more countries until they are the same.”*⁵⁴ This is the most integrated of the three types of networks.

The deepening of regional integration is assured by the regional spread of transgovernmental networks. Unlike the situation with the other theories of regional integration, the enlargement process depends *“more on political and professional convergence than on civilisational boundaries.”*⁵⁵ Transgovernmentalism, in Slaughter’s view, effectively addresses the concern over the so-called *“globalisation paradox –*

⁵¹ Anne-Marie Slaughter, *A New World Order*, (Princeton, N.J.: Princeton University Press, March 2004), p. 32.

⁵² *Ibid.*, pp. 18-19.

⁵³ *Ibid.*, p.14 (Slaughter’s emphasis).

⁵⁴ *Ibid.*, p.59. Slaughter quotes Sidney A. Shapiro, “International Trade Agreements, Regulatory Protection, and Public Accountability”, *Administrative Law Review* 54 (2000), p. 436.

⁵⁵ Anne-Marie Slaughter, “The Real New World Order”, p. 196

*needing more government but fearing it at the global level.”*⁵⁶ Among the virtues of transgovernmentalism, is its ability in “*simultaneously assuaging conservative fears of a loss of sovereignty to international institutions and liberal fears of a loss of regulatory power in a globalised economy.*”⁵⁷

The level of integration of border management predicted by transgovernmentalism is dependent on the nature of the governmental network. In the case of a harmonisation network, one expects to see the adoption of common standards and procedures. Conversely, the role of an informational network is limited to the sharing of information between countries. Enforcement networks occupy somewhat of a middle ground, intent “*primarily on enhancing cooperation among national regulators to enforce existing national laws and rules.*”⁵⁸ Of interest to this study is the fact that, as some of the targets of regulatory efforts increasingly move across borders (e.g. legitimate businesses as well as criminal activities), regulators are required to “*expand their regulatory reach by initiating contact with their foreign counterparts.*”⁵⁹ As a result, Slaughter believes that the presence of law enforcement networks among entities such as “*police officers, customs officials, drug agents and prosecutors*” is not surprising.⁶⁰ Enforcement networks, in this sense, provide deeper interaction among the players than an informational network but stop short of adopting a high level of commonality as in a harmonisation network.

⁵⁶ Anne-Marie Slaughter, *A New World Order*, p. 32.

⁵⁷ Anne-Marie Slaughter, “The Real New World Order”, p. 185.

⁵⁸ Anne-Marie Slaughter, *A New World Order*, p. 55.

⁵⁹ *Ibid.*, p. 55.

⁶⁰ *Ibid.*, p. 55.

The remaining unanswered question is whether transgovernmentalism could ultimately impact issue areas that are within the realm of “high politics”. Some authors have recognised that, in the case of “*advanced industrialised states, border controls are increasingly less about military defence or the imposition of quotas and tariffs on commerce and more about the policing of CTA’s (clandestine transnational actors), with terrorists, drug traffickers, unauthorised migrants and migrant smugglers leading the list of state targets.*”⁶¹ The result of such a change in focus therefore leads to activities more aptly addressed at the subgovernmental level such as “cross-border police cooperation” as well as the deployment of “more sophisticated detection technologies and information systems” in the field.⁶² Border management issues, in this regard, offer an interesting test case to measure the applicability of transgovernmentalism to a policy domain considered to be instrumental to a nation’s sovereignty and to the realm of high politics.

It is important to assess the shift in traditional functions of the border. As some of these have shifted toward law enforcement and policing, border management now focuses on the implementation of mechanisms, tools and processes that are consistent with this new role. One expects, according to this view, to observe a number of subgovernmental organisations cooperating on the development of new processes, policies and procedures. The end result is a level of integration that focuses on the more *technical* aspects of border management.

⁶¹ Peter Andreas, “Redrawing the Line – Borders and Security in the Twenty-first Century”, p. 107.

⁶² *Ibid.*, p. 107.

Realism

It is difficult to avoid references to realism in any discussion involving the interaction of sovereign nations. As the most often cited theoretical framework used to understand how nations interact, realism, notwithstanding some of its imperfections, remains a useful lens through which to view international cooperation and integration. However, realists have some difficulty contending with the voluntary pooling of sovereignty, a notion that is counterintuitive to the Hobbesian view of one's survival.

Realism holds that states are the major actors in world affairs.⁶³ Operating in an anarchical setting without the presences of any overriding global authority, states behave as unitary rational actors seeking to ensure their respective survival.⁶⁴ In such a context, the significance of relative power is heightened. In fact, realists such as Gilpin argue that power is always relative and, while "*all may be gaining or declining in absolute capability, what will concern states principally are the effects of these absolute gains or losses on relative power.*"⁶⁵ The uncertainty of anarchy and the primacy of relative gains exacerbate the sense of fear and anxiety that exists among nations. The creation of a security dilemma, the unintended threatening effect one's defence-related activities has on another country's sense of security, leads to a *continuous* sense of vigilance among nations.

⁶³ Hans J. Morgenthau, Politics Among Nations: The Struggle for Power and Peace, 5th edition, (New York: Knopf, 1973), p. 10 and Kenneth N. Waltz, Theory of International Politics, (Reading, Mass.: Addison-Wesley, 1979), p. 95.

⁶⁴ Kenneth N. Waltz, Man, State and War: A Theoretical Analysis, (New York: Columbia University Press, 1959), p. 224-238 and Waltz, Theory of International Politics, (Reading, Mass.: Addison-Wesley, 1979), pp. 79-128.

⁶⁵ Gilpin is quoted in Joseph M. Grieco, Cooperation Among Nations : Europe, America, and Non-tariff Barriers to Trade, (Ithaca: Cornell University Press, 1990), p. 12.

Consequently, realists in general have a more pessimistic view of international cooperation than neoliberal institutionalists. Joseph Grieco suggests that “*for realists, international anarchy fosters competition and conflict among states and inhibits their willingness to cooperate even when they share common interests.*”⁶⁶ This suggests that states are overwhelmingly preoccupied by relative positions leading Grieco to suggest that “states are positional not atomistic”.⁶⁷

The impact of this dynamic on the success of regional integration arrangements is therefore somewhat bleak in the eyes of realists. While cooperation is still considered possible, the chances for success are not guaranteed. “*Realists do not claim that international cooperation is impossible, only that in a world where states cannot be compelled to keep their promises and free riders can wreak havoc, the incentives for states to enter into reciprocal arrangements are weak at best.*”⁶⁸ However, there is still a requirement for realism to explain the occurrence of the many international arrangements, economic or other, that have appeared on the international stage. To effectively accomplish this, one needs to turn to subsets of the realist paradigm. In particular, this paper considers Grieco’s “voice opportunity theory” and Gruber’s concept of “go-it-alone” power.

Grieco’s “voice opportunity theory”, stems from the emphasis placed by realists on the importance of relative gains in the decision-making processes of states. More precisely,

⁶⁶ Joseph M. Grieco, “Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism”, *International Organization* 42, 3 (Summer 1998), p.485 (emphasis added).

⁶⁷ *Ibid.*, p. 487

⁶⁸ Lloyd Gruber, *Ruling the World – Power Politics and the Rise of Supranational Institutions*, (Princeton, New Jersey: Princeton University Press, 2000), p. 21.

*“if states share a common interest and undertake negotiations on rules constituting a collaborative arrangement, then the weaker but still influential partners will seek to ensure that the rules so constructed will provide sufficient opportunities for them to voice their concerns and interests and thereby prevent or at least ameliorate their domination by stronger partners.”*⁶⁹ In consideration of the power asymmetry that exists in North America, Canada would need to ensure that it makes its position clear in an effort to guarantee the promotion or preservation of its interests. To do so, it needs to cooperate.

Gruber proposes a different dynamic of how power can influence the level of cooperation among partners. He suggests that through “go-it-alone” power, weaker countries are compelled to follow the lead of a more powerful partner although the final outcome might not be optimal for this weaker player. The dynamic of the interaction works as follows. The stronger player in a relationship decides to alter its policies for a particular reason (e.g. change in domestic political leadership) in an effort to improve its situation or utility. The weaker player, understanding that the change to the current situation worsens its own condition, decides to cooperate with the stronger player although the final outcome is still worse than the original *status quo*. The weaker player is also forced to admit that the original situation cannot return since the stronger player has sufficient power to proceed unilaterally.⁷⁰

According to one of the basic concepts of realism, the fear for one’s survival is seen as the determining factor influencing national policies related to security. Also, preventing

⁶⁹ Joseph M. Grieco, “The Maastricht Treaty, Economic and Monetary Union and the Neo-realist Research Programme”, *Review of International Studies* 21, 1 (January 1995), p. 34.

⁷⁰ Lloyd Gruber, *Ruling the World – Power Politics and the Rise of the Supranational Institutions*, p. 39.

one's neighbours from achieving relative gains is another primary consideration of national governments. However, in the context of Canada – US relations, the latter might not be as pertinent to this analysis as the power asymmetry is so manifest. What both approaches suggest is that the weaker player is left with a suboptimal outcome in terms of its interests and its best hope to limit the effect of negative externalities caused by the unilateral actions of the stronger player is to cooperate.

One of the main preoccupations of heads of government is the protection of its citizens. The goal of preventing the entry of dangerous factions onto one's territory has become increasingly significant in the aftermath of the events of September 11, as it was discovered that the masterminds of the terrorist attack operated from *inside* the country. The US possesses enough military resources to ensure its own protection by dispatching troops globally to proactively address threats on other lands. It can also assign its forces to the direct protection of the homeland. This suggests that the US can proceed on its own and not be concerned with the consequences on its two neighbours. In fact, the application of Gruber's theory implies that the US, by virtue of its economic and military strength, can decide to "go-it-alone" in terms of implementing border management policies that ensure its interests and objectives are met on a priority basis. As a result, Canada is *compelled* to cooperate in order to *limit* the negative impact the final policy outcome would yield. The option of non-cooperation would place Canada in a worse situation than the original *status quo*.

Conversely, under Grieco's voice opportunity theory, the power asymmetry between both countries forces Canada to cooperate with the US in order to ensure the final outcome does not negatively impact its national interests. Particularly, in order for Canada to continue to have a say in the development of policies having a material impact on its interests, it is required to either agree to the terms requested by the US or adopt its desired policies. In essence, Grieco's approach is a theoretical reconciliation within realism to explain how smaller states sometimes surrender some of their sovereignty to supranational institutions in contradiction to the most traditional realist claims that states adamantly refuse to do so in any circumstance for reasons of survival. Therefore, through the application of Grieco's approach, it is expected that Canada, in order to maintain an influence over the policies that impact its interests, would acquiesce to the demands of the US and cooperate.

Both realist approaches therefore suggest a similar outcome with respect to the degree of integration of border management policies. The interaction predicted by both Grieco and Gruber imply that the final outcome is biased in the direction of the interests of the stronger player.

Table 1 on page 37 summarises the predictions of the four theories along the different dimensions of analysis. The theoretical interpretations reviewed above form a mosaic of different possible outcomes related to border management. There is neither a common ground nor a clear indication that one unique theory can help explain the degree of

integration of Canada - US border management in its entirety. At best, these theoretical frameworks offer fragmentary explanations.

Table 1 – Theoretical Approaches

	Neofunctionalism	Liberal Intergovernmentalism	Transgovernmentalism	Realism Voice Opportunity Theory (VOT) Go-It-Alone Power (GIAP)
Common goals / objectives / imperative to act	Political actors are "persuaded to shift their loyalties" and cede some amount of national sovereignty to a supranational institution	Yes, but states will continue to consider issues and work towards outcomes that are consistent with their own interests	Issue area specific	Greater imperative to act on the part of the weaker state Weaker state is forced/compelled to cooperate
Institutional framework	Supranational entity, could be treaty based	Supranational entity, could be treaty based	Informal, based on a process of "networking" at the functional level of government activities and processes	Could be treaty based
Role of the state	Diminished through the greater role of supranational institutions	Rational actors that play "two-level games" Governmental representatives participate in intergovernmental bargaining	The locus of control moves from the unitary state to the <i>disaggregated</i> state State still has primary role in issues of high politics	As subsets of realism, in VOT and GIAP, states are the key actors in world politics. State rationality is also assumed
Importance of power	Not a key factor	Achieving consensus that still meets national interests is the priority. Little room for coercion. Power appears in the form of bargaining leverage. Preferences of the state are driven by the domestic political process	Not a key factor. Priorities are driven by the issue area	Power is the key consideration in both VOT and GIAP.
Influence of domestic politics / interest groups / bureaucratic actors and other non state actors	High, through their lobbying effects on national government		Important as they relate to the specific issue area being discussed	Not considered, the state is the only actor considered
Importance of individual state interests	Not a key factor, common interests are more important	High. National sovereignty is a key preoccupation. Interests of the state are of a higher concern than the preferences of supranational organisations	Based on the priorities that exist within the issue area, these might not necessarily match particular state interests	States are "self-help" agents seeking outcomes that are beneficial to them
Expansion of the integration process	Through functional and political "spillover" (could eventually lead to issues of high politics)	Treaty reform and amendments, new treaties	Deepening and widening occurs at the issue area level, some spillover effect as success stories emerge	Proceeds as necessary to counter the power of the stronger player

Smart Border Agreement

On December 12, 2001, Canadian Foreign Minister and Deputy Prime Minister John Manley along with US Homeland Security Director Tom Ridge signed the *Smart Border Agreement*, a cooperative action plan detailing 30 areas of concern linked to the management of the border. The principal objective of the agreement is to implement a number of measures to enhance the security of the border while facilitating the legitimate flow of people and goods. Specifically, some of the measures include the use of biometrics in travel documents, the implementation of a single inspection system, the streamlining of refugee and asylum processes, visa policy coordination, the implementation of compatible immigration databases, the use of joint facilities and joint enforcement coordination.⁷¹

From a neofunctionalist perspective, a common border management policy is a spillover requirement that ensures the survivability of the economic relationship existing between Canada and the US as institutionalised through NAFTA. In order to ensure the benefits of an integrated economic arrangement, it could be argued that both countries share a common view of the implications of not agreeing to joint border policies. While such an interpretation is useful in suggesting the *need* for a common border management approach, it does not advance our knowledge as to the *type* of arrangement that is plausible.

⁷¹ For a full listing of the original 30 action items, refer to the web site of the Canadian Department of Foreign Affairs and International Trade, "Smart Border Action Plan Status Report", December 17, 2004, available at <http://www.dfait-maeci.gc.ca/can-am/menu-en.asp?act=v&mid=1&cat=10&did=2465> (accessed on March 3, 2005).

Especially in the US, much of the discourse about the security of the borders is intended for domestic consumption. The essential aim is to create the impression of perfect security. According to some analysts, the US is now faced with a crucial security paradox, *“the more money invested in homeland security and other counter-terrorist and counter-proliferation programs, the higher the public’s sense of security and corresponding standards for measuring success and failure, and the more significant (and negative) the political and economic impact when the next failure occurs.”*⁷² As a result, governments will have a tendency to overcompensate for the heightened security expectations of its respective population. Particularly in the US, *“any indication that the government has wasted billions of dollars on homeland security and risked the lives of thousands of American troops in foreign interventions will produce a disproportionate response demanding that political officials do more.”*⁷³ A similar dynamic is also present in Canada. The influence of domestic politics is consistent with liberal intergovernmentalism. The breadth of activities covered by the Smart Border Agreement is a clear attempt to ensure that all bases are covered in terms of border management processes. Whether or not the final implementation of all measures outlined in the agreement will succeed in improving the security of the border, the Canadian and American populations will want the assurances that no stone is left unturned when it comes to guaranteeing its security.

Most of the practical aspects of the Smart Border Agreement are driven by networks of subgovernmental actors specialised in particular aspects of border management.

⁷² Frank P. Harvey, *Smoke & Mirrors – Globalized Terrorism and the Illusion of Multinational Security*, (Toronto: University of Toronto Press, 2004), p. 172.

⁷³ *Ibid.*, p. 173 (emphasis added).

These networks are responsible for the implementation of the processes and procedures consistent with the objectives of the agreement: ensuring the secure flow of people and goods, providing a secure infrastructure and facilitating information-sharing and coordination. By virtue of the technical aspect associated with these issues, the state thus plays a secondary role in the final outcome of the policy.

From a realist perspective, the two subsets of the theory described in this paper, voice opportunity theory and go-it-alone power, predict similar outcomes. Gruber's approach describes a reactive stance on the part of the weaker partner, whereas Grieco sees cooperation as the only choice for the less powerful player in order to ensure that its interests are heard. The end result in both cases is a border management approach favouring the preferences of the stronger player.

Table 2 on page 41 outlines the main characteristics of the Smart Border Agreement along the same relationship dimensions used to describe the different theoretical frameworks (see Table 1). The theoretical approaches that offer some explanation of the dimension of analysis are also indicated. On the basis of the observations presented here, the current border arrangement between Canada and the US is better explained by a *collage* of the different theories discussed. There is no commonality with respect to what these theories suggest. Each framework emphasises a particular aspect of the relationship between both countries, and none can actually capture all the nuances of the level of integration of border management.

Table 2 – Smart Border Agreement

	Canada –US Smart Border Agreement	Theoretical Framework(s) that better suits this dimension of the relationship
Common goal / objective / imperative to act	To facilitate trade while maintaining national security (publicly stated objective by both governments) Forced by the events of Sep. 11	Neofunctionalism
Institutional framework	Formalised through a signed agreement at the Cabinet/Secretary level, not by the respective heads of state. Expedited agreement in the aftermath of September 11. Status report was delivered by the respective heads of state.	Liberal Intergovernmentalism
Role of the state	Achieved through traditional interstate bargaining and expedited following the “shock” of the 9/11 attacks	Liberal Intergovernmentalism
Importance of power	The US is sufficiently powerful to decide on the terms of the arrangement Canada is required to cooperate in order to ensure that its “voice” is heard	<u>Realism</u> Gruber’s “go it alone” power Grieco’s voice opportunity theory
Influence of domestic politics / interest groups / bureaucratic actors and other non state actors	Limited to the technical and operational aspects related to the implementation of the agreement. No spillover effect to other areas such as social policy, immigration, etc. Business lobby is heavily engaged	Transgovernmentalism Liberal Intergovernmentalism
Importance of state interests	Important especially as it pertains to the domestic positioning of the security aspect of the border	Liberal Intergovernmentalism
Expansion of the integration process	No evidence that the process will move beyond the economic domain	Neofunctionalism (indeterminate)

A Different Method to Apply Theory

The different theoretical approaches described above support and emphasise the significance of one particular type of actor over another. From the state to domestic actors, sub-governmental players or supranational entities, these theories underline different motives for action. Prominent among this debate is the competing interpretations offered by neofunctionalism and intergovernmentalism. Respectively, these theories have relied on the importance of supranational institutions versus the centrality of the state (i.e. national governments) in the process of regional integration. However, in isolation, these theoretical approaches can only offer an incomplete assessment of the dynamics of regional integration. Consequently, a narrow application of these frameworks is ill-equipped to address the complexities of regional integration and the level of integration of border management policies. There are challenges to having such a rich and diversified theoretical base.

Fortunately, some scholars have acknowledged these realities and have suggested mechanisms through which the individual insight provided by these different theoretical lenses can be leveraged to provide greater explanatory power. In this respect, some have proposed more adaptable methodologies of analysis that avoid the sterile theoretical pigeonholing exercises that, in most cases, offer limited insight. Some authors view the development and evolution of the regional integration process

along a continuum, such as from intergovernmentalism to supranationalism⁷⁴ or from neofunctionalism to intergovernmentalism.

Instead of confining the insight of the research findings to the strict parameters of a particular theoretical framework, it is useful to apply an approach that considers elements of different theoretical frameworks. In this regard, regional integration is better understood through a method of analysis that adopts a phased or “stage-theory” approach. For example, *“it might be argued that the early phases of regional cooperation may be the result of the existence of a common enemy or powerful hegemonic power; but that, having been thrown together, different logics begin to develop: the functionalist or problem-solving logic stressed by institutionalists, or the logic of community highlighted by the constructivists.”*⁷⁵ The main premise of this approach is to suggest that different forces, at particular times, are influencing the development and evolution of the regional integration process. This approach is not without resemblance to historical institutionalism which argues that *“what one makes of the EC depends on whether one examines a photograph or a moving picture.”*⁷⁶ Conclusions reached when analysing a particular situation in a static sense can sometimes differ dramatically when past events and relationships are considered.

⁷⁴ Braden E. Smith offers an interesting interpretation of the development of the Common European Security and Defence Policy (CESDP). He suggests an approach that views the different theoretical approaches as *“a unique set of theoretical presuppositions that potentially impact their ability to explain defence integration...these categories should be viewed as ideal types employed for the purpose of analysing some underlying theoretical similarities and differences and not as a definitive account of each theory”*. See Braden E. Smith, “Integration or Cooperation: Adapting Theories of Regional Integration to the Development of the CESDP”, Campbell Public Affairs Institute, Sawyer Law and Politics Program, The Maxwell School of Syracuse University, October 29, 2004, p. 4, emphasis added. The article can be accessed at <http://www.campbellinstitute.org>.

⁷⁵ Andrew Hurrell, “Explaining the Resurgence of Regionalism in World Politics”, *Review of International Studies* 21, 4 (October 1995), p. 358.

⁷⁶ Paul Pierson, “The Path to European Integration: A Historical Institutional Analysis”, *Comparative Political Studies* 29,2 (April 1996), p. 127.

The stage-theory approach allows one to view the evolution of the process of regional integration in a clearer light. The EU case demonstrated that precise conditions were present at different times. In the early stages, the common perception of a threat served as the ignition mechanism allowing the concept of integration to enter the political conscience of policy-makers and the electorate. The seriousness of the threat, whether economic or related to security concerns, determines the *level* to which nations are willing to delegate some of their sovereign rights to a regional institution. For example, a serious threat to survival or national security (to a region) may create a greater openness to cooperate and delegate to a supranational authority.

Can theories be amalgamated in a different order so as to capture the temporal aspect of the different stages of a cooperative regional agreement? Does stage-theory provide any insight into the process that led to the Smart Border Agreement? To answer these questions, it is important to consider the dimension of analysis pertaining to the role of the state. It is argued that the level of involvement of the state is different throughout the life cycle of an agreement between nations. Figure 1 on page 46 illustrates the degree of involvement of the state throughout the evolution of a cooperative agreement. It is posited that the various theoretical frameworks explored thus far will apply in a manner more consistent with stage theory. Figure 1 is a representation of how the different theories could be applied to the progression of border management issues between Canada and the US.

Following the occurrence of a significant event and once a common imperative to act assessed, the initial stage of the negotiation process begins. At this stage, states are normally heavily engaged in the process. In the case of the Smart Border Agreement, the beginning of its evolution can be traced to debates occurring as far back as 1993.⁷⁷ Subsequently, the rapid implementation of some of the measures in the agreement is clearly linked to the events of September 11. In fact, according to Christopher Sands of the Canada Project at the Center for Strategic and International Studies, “*the Smart Border Declaration is not a new beginning so much as a new commitment of political will and adequate funding to follow through on good ideas that had languished for want of both prior to September 11.*”⁷⁸ Therefore, following the shock of a significant event, states are expected to be heavily involved in the process of setting the foundation for the development of a cooperative agreement. This is also a period when the awareness of domestic actors and the general public is at its highest level resulting in greater scrutiny of governmental responses to the event.

However, as the negotiations progress (still with a significant involvement by the states concerned), the influence of different domestic stakeholders begins to appear. Domestic constituents, domestic interest groups and transborder coalitions of interest groups vocalise their respective positions and attempt to sway the political decision-makers to their own benefit. While still very present, states are no longer the unique actors in the process (the curve in Figure 1 therefore begins to move downward).

⁷⁷ Christopher Sands, “Terrorism, Border Reform, and Canada-United States Relations: Learning the Lessons of Section 110”, keynote address for the conference “Linkages Across the Border: The Great Lakes Economy”, April 4, 2002, p. 2. The speech was accessed on March 5, 2005 at the following link: http://www.csis.org/americas/canada/020404_terrorism.pdf.

⁷⁸ Ibid., p. 9.

Once a final agreement is reached, the implementation phase of the agreement is taken over by transgovernmental networks specialised in the technical and operational aspects linked to the agreement. At this stage, the role of the respective governments is reduced to supervisory responsibilities. However, should the domestic political environment change or a new dramatic shock occur (i.e. a new terrorist attack or the emergence of a new and significant threat), the role of the state would once again be propelled to the forefront of new negotiations and the beginning of a new cycle.

As seen in Figure 1, the three stages of the process rely on a different theoretical framework thus suggesting that amalgamating theories in a particular temporal order can offer some explanatory insight as to how a cooperative agreement is reached.

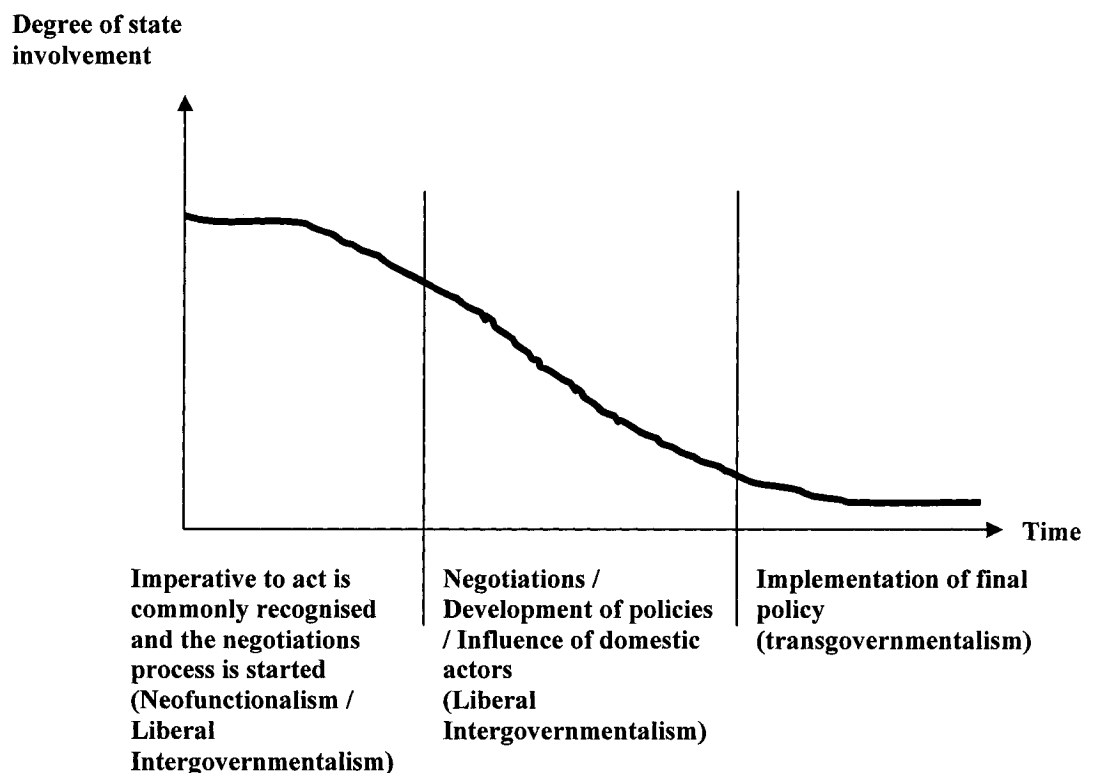


Figure 1 – Cycle of State Involvement

There is some indication that a stage-theory approach offers some insight into explaining the Canada – US Smart Border Agreement. The next step of the analysis will therefore focus on identifying the key factors that can explain the research puzzle. The discussion and comparison of the theoretical approaches provide some direction in determining the variables that ultimately influence the achievement of an integrated border agreement. In the research design, I develop a methodology that fills the gaps left by the individual and fragmentary interpretations provided by the theoretical frameworks explored thus far.

Border Management Theory: Serious Scholarship or Platforms for Advocacy?

In contrast to the voluminous literature on Canada – US integration, academic work specifically themed on border management is surprisingly sparse. This observation is astonishing when one considers the nature, significance, scope and impact this issue-area has on the overall relationship between the two countries. However, the post-September 11 anxiety has made border control an energetically debated topic. The once renowned reputation of “the world’s longest undefended border” is no longer shielded from the security-driven concerns of US politicians. As “*traditional border issues such as trade and migration are now inescapably viewed through a security lens*”⁷⁹, border control issues are now attracting considerable more attention beyond its conventional treatment as a mere subset of issues related to the more complex topic of Canada – US relations. Although still in its infancy, the study of specific

⁷⁹ Peter Andreas, “A Tale of Two Borders: The U.S.-Canada and U.S.-Mexico Lines After 9-11, in The Rebordering of North America – Integration and Exclusion in a New Security Context, Peter Andreas and Thomas J. Biersteker, editors, (New York: Routledge, 2003), p. 2.

border management and control topics, as a stand-alone issue-area, is becoming more prevalent.

Writings on border issues fall into two categories. First, there are policy-driven advocacy-type works that propose, suggest and defend the positions and beliefs of particular interest groups. Prevalent among this type of discourse are business-friendly organisations and scholars holding more continental views of North American trade and security. In such works, border management issues are treated as part of the overall Canada – US relation. Second, the changing function of borders dominates the more scholarly studies.

Canada has historically sought to balance the relationship with its more powerful neighbour. As a country of “hewers of wood and drawers of water”, Canada’s economic survival was, and remains today, driven by a need to guarantee access to the American market for its goods. In return, by virtue of its geographical location, Canada has always been considered as a key element in the defence of US territory. This particular discourse is still relevant today as the US endeavours to implement a ballistic missile defence (BMD) system by actively courting Canadian participation. Appropriately, The Conference Board of Canada released a report entitled *In Search of a New Equilibrium in the Canada – U.S. Relations* advocating an approach reminiscent of Trudeau’s “third way”. The report suggests “*better management of our multi-faceted relationships with the Americans need not come at the cost of cutting ourselves off from opportunities in the rest of the world. Maintaining strong*

continental ties and a vigorous global foreign policy will remain complementary, not contradictory.”⁸⁰ Although some of the basic themes of Canada – US relations have been resilient over time, there have been attempts to develop different models of interaction. However, these attempts need to adapt to the changing function of borders.

Daniel Drache summarises the different roles of the Canada – US border in the period preceding the events of September 11. There are four specific roles.⁸¹ First, the border acts as “line in the sand” for one’s identity. This relates to issue-areas such as citizenship and immigration, political refugees and cultural flows. Second, the border often acts as a “regulatory wall” aimed at protecting domestic rules and norms for health, transportation and the environment. Third, as a “commercial gate”, borders ensure the facilitation of transportation flows for goods, services and people. Finally, borders are a “security moat” with respect to intelligence, policing and crime. From the American perspective, the aftermath of September 11 has created a situation where “*there is no longer a Canada – US consensus that each country is responsible for its side of the fence.*”⁸² Deeper cooperation appears inevitable.

The changing role of the Canada – US border has been analysed in depth by Peter Andreas who perceives three distinct types of borders: military, economic and police. Military and economic borders are declining by virtue of a wave of demilitarisation

⁸⁰ Conference Board of Canada, “In Search of a New Equilibrium in the Canada – U.S. Relationship”, p. 4.

⁸¹ Daniel Drache, Border Matters – Homeland Security and the Search for North America, (Halifax: Nova Scotia, Fernwood Publishing, 2004), p.3.

⁸² Ibid., pp. 3-4.

and economic liberalisation while “police borders” are expanding.⁸³ Specifically, Andreas views the main role of modern borders as denying territorial access to “clandestine transnational actors” (CTA) which he defines as “*non-state actors who operate across national borders in violation of state laws and who attempt to evade law enforcement efforts.*”⁸⁴ The continuous stream of innovations in the areas of communication and transportation has created additional possibilities for increased interconnectedness on a global scale for both legitimate *and* illegal human activities. This has led to a number of new threats with an impact the world over. Andreas’ CTAs are reminiscent of Moisés Naim’s “five wars of globalisation”, namely, the illegal trade of drugs, arms, intellectual property, people, and money.⁸⁵ These have become the new staples of international crime and are a direct challenge to modern border management.

Notwithstanding the diversity of policing challenges facing today’s border control process, the changes to the central function of border management are essentially driven by the prevailing discourse of “homeland security”. Homeland security is characterised by a “*growing prominence of law enforcement in national security institutions and missions, and a further blurring of the traditional distinction between internal and external security threats.*”⁸⁶ There is no longer a clear and definite distinction among the threats facing states. In the US, memories of September 11 are a constant reminder that security vulnerabilities can easily germinate within ones own

⁸³ Peter Andreas, “Redrawing the Line – Borders and Security in the Twenty-first Century”, p. 85.

⁸⁴ *Ibid.*, p. 78

⁸⁵ Moisés Naim, “The Five Wars of Globalization”, *Foreign Policy*, Issue 134, Jan./Feb. 2003, p. 29.

⁸⁶ Peter Andreas, “A Tale of Two Borders: The U.S.-Canada and U.S.-Mexico Lines After 9-11”, p. 7.

boundaries especially if ill-intentioned parties are granted entrance. However, while the *9/11 Commission Report* suggests the need for “extensive international cooperation” to ensure terrorists are prevented from entering the country⁸⁷, the new discourse of homeland security is not conducive to a sustainable cooperative environment. In fact, Drache suggests that “*Homeland security is a bare-knuckle, unilateral policy framework that is not rule-based and negotiated like NAFTA.*”⁸⁸ Similarly, when one hears President Bush declare that “*when it comes to our security, we really don’t need anybody’s permission*”⁸⁹, it is not difficult to understand that any cooperative arrangement on border control could ultimately be controlled by Washington.

As a result of the dramatic increase in bilateral trade since the implementation of NAFTA, “*firms and associations are demanding measures to facilitate the cross-border movement of goods and people.*”⁹⁰ Much of the contemporary debate relates to the institutional arrangement that could best serve the balancing of security and trade issues. The impact on border control could be significant. For example, some have suggested that NAFTA be expanded into a customs union, an approach that would have significant consequences for border management policy. No matter the approach proposed, the conclusion is clear. NAFTA, in its current state, is not a solid

⁸⁷ National Commission on Terrorist Attacks Upon the United States, *9/11 Commission Report*, (New York: Barnes & Noble Books, 2004), p. 390.

⁸⁸ Daniel Drache, *Border Matters*, p. 11.

⁸⁹ *Ibid.*, p. 11.

⁹⁰ Maureen Appel Molot, “The Trade-Security Nexus: The New Reality in Canada-US Economic Integration”, *American Review of Canadian Studies*, March 22, 2003, p. 30.

basis for further integration efforts at the North American scale.⁹¹ Peter Andreas and Thomas Biersteker conclude that there are five key considerations with respect to border control. First, Canada and Mexico are the ones who will need to adapt to US policies and practices.⁹² Building on Trudeau's analogy that Canada is like a mouse living next to an elephant, the situation in North America is one of "*two scared mice next to a neurotic elephant.*"⁹³ Ironically, Canada and Mexico are more worried about the US's *reaction to terrorism* than terrorism itself. Second, "*further moves toward integration and policy harmonisation in North America need to be accompanied by a greater institutionalisation of governance in the region.*"⁹⁴ Third, Mexico normally follows Canada in terms of establishing new policies with the US.⁹⁵ Fourth, there are a number of powerful interests that want to ensure "*that physical security concerns do not displace economic and commercial ones.*"⁹⁶ Finally, there is a clear movement toward the "*introduction of smart borders.*"⁹⁷

Within the context of building stronger Canada – US economic relations, the C.D. Howe Institute has surveyed fifteen different proposals for next steps on North American integration.⁹⁸ The summary categorised the different proposals using certain criteria such as whether Mexico should be included in the agreement, the

⁹¹ Gary Clyde Hufbauer and Gustavo Vega-Cànovas, "Whither NAFTA – A Common Frontier?" in The Rebordering of North America, p. 134.

⁹² Thomas J. Biersteker, "The Rebordering of North America? Implications for Conceptualizing Borders After September 11, in The Rebordering of North America, pp.154.

⁹³ Peter Andreas, "A Tale of Two Borders: The U.S.-Canada and U.S.-Mexico Lines After 9-11, in The Rebordering of North America, p. 12.

⁹⁴ Thomas J. Biersteker, "The Rebordering of North America? Implications for Conceptualizing Borders After September 11, in The Rebordering of North America, p.154.

⁹⁵ Ibid., p. 155.

⁹⁶ Ibid., p. 155.

⁹⁷ Ibid., p. 156.

⁹⁸ Danielle Goldfarb, "Beyond Labels: Comparing Proposals for Closer Canada-U.S. Economic Relations", *Backgrounders* 76 (October 2003), C.D. Howe Institute, pp.2-7.

harmonisation of tariffs, whether defence should be included, whether one or two currencies should remain and finally, the type of institutional order that should prevail. Of particular interest to the research question treated in this paper, is the sub-category of trade issues. This sub-category addresses the key question of “how to secure the physical border while facilitating trade”. Table 3 on pages 54 and 55 highlights the different positions suggested.

These proposals of further Canada – US and North American integration highlight different elements as they pertain to the role of the border. While the focus of these proposals differs, there are some common elements: the continuation of the smart border agenda, increased commonality with respect to the handling of third-country migrants and cargo, the creation of a security perimeter around North America and the implementation of a Schengen-type approach to border management.⁹⁹ These different dimensions ultimately influence the level of integration of border management between the two countries.

⁹⁹ Danielle Goldfarb, “Beyond Labels: Comparing Proposals for Closer Canada-U.S. Economic Relations”, p. 10.

Table 3 - How to secure the physical border, while facilitating trade¹⁰⁰

<i>Advocate / Author</i>	<i>Proposal</i>
Daniel Schwanen ¹⁰¹	Develop better connectivity and compatibility in transportation infrastructure; address threats to trading partners stemming from cross-border movements; consider modified version of Schengen accord.
Michael Hart and William Dymond ¹⁰²	Adopt common approaches to refugee, visa, and other immigration matters; streamline or eliminate customs clearance for people and goods
Robert Pastor ¹⁰³	North American plan for infrastructure and transportation; trilateral customs and immigration service; converging policies on immigration and refugees.
Wendy Dobson ¹⁰⁴	Build on Smart Border agenda; increase security and facilitate flows of low-risk goods, people, capital, technology; agree on common procedures to handle third country migrants and cargo.
Gary Hufbauer and Gustavo Vega-Cánovas ¹⁰⁵	Move inspections away from border; jointly review visa policies; establish joint immigrations teams.
House of Commons Standing Committee on Foreign Affairs and International Trade ¹⁰⁶	Accelerate construction of infrastructure at existing border points; ensure border staffing and training is adequate; modernise customs requirements; review long-term options including a North American security perimeter.
Canadian Council of Chief Executives ¹⁰⁷	Reinvent border, shift border enforcement to approaches to North America; shared approaches to commercial processing, infrastructure, intelligence and policing, develop a North American identity document.
Charles Barrett and Hugh Williams ¹⁰⁸	Build on Smart Border; make infrastructure investments; increase cooperation to encourage labour mobility; encourage cooperation between security and police forces to jointly identify, track, and contain security risk.
Canadian Chamber of Commerce ¹⁰⁹	Develop a single, clearly identifiable point of contact on border issues; favour security perimeter strategy; business must also play a role in ensuring security.
Robert Wolfe ¹¹⁰	Not addressed explicitly; implicitly endorses Smart Border agreements.

¹⁰⁰ Reproduced from Table 1 in Danielle Goldfarb, “Beyond Labels: Comparing Proposals for Closer Canada-U.S. Economic Relations”, *Backgrounders* 76 (October 2003), pp. 2-7. Detailed individual references added.

¹⁰¹ Daniel Schwanen, “After Sept. 11: Interoperability with the US, Not Convergence”, *Policy Options*, Institute for Research in Public Policy, November 2001.

¹⁰² Micheal Hart and William Dymond, “Common Borders, Shared Destinies: Canada, the United States and Deepening Integration”, Centre for Trade Policy and Law, Ottawa, 2001.

¹⁰³ Robert A. Pastor, *Toward a North American Community: Lessons from the Old World for the New*, (Washington, DC: Institute for International Economics, August 2001).

¹⁰⁴ Wendy Dobson, “Shaping the Future of the North American Economic Space: A Framework for Action”, *Commentary* 162, C.D. Howe Institute Border Papers, April 2002.

¹⁰⁵ Gary Clyde Hufbauer and Gustavo Vega-Cánovas, “Whither NAFTA – A Common Frontier?” in *The Rebordering of North America*.

¹⁰⁶ House of Commons Standing Committee on Foreign Affairs and International Trade, “Partners in North America: Advancing Canada’s Relations with the United States and Mexico”, December 2002.

¹⁰⁷ Canadian Council of Chief Executives, “Security and Prosperity: Toward a New Canada – United States Partnership in North America”. A profile of the North American Security and Prosperity Initiative (NASPI), January 2003.

¹⁰⁸ Charles Barrett and Hugh Williams, “Renewing the Relationship: Canada and the United States in the 21st Century”, Conference Board of Canada, 2003.

¹⁰⁹ Canadian Chamber of Commerce, “Action Plan for Government and for Business on Canada – US Economic Issues, March 3, 2003.

¹¹⁰ Robert Wolfe, “See You in Washington? A Pluralist Perspective on North American Institutions”, *Choices* 9, 4, Institute for Research in Public Policy (IRPP), April 2003.

<i>Advocate / Author</i>	<i>Proposal</i>
Allan Gotlieb ¹¹¹	Establish common rules favouring movement of people, goods and services within North America; establish common criteria for entering and moving within it.
D.H. Burney ¹¹²	Strengthen North American security; could include common procedures to handle immigration and refugee policies.
Senate Standing Committee on Foreign Affairs ¹¹³	Accelerate implementation of Smart Border Accord by accelerating infrastructure construction and establishing pre-clearance at land-border crossings; launch campaign to inform US decision makers that Canada takes security seriously.
C.D. Howe Institute Border Papers ¹¹⁴	Make security high profile priority; continue to move functions away from border; recognise security risks in each country affect the other; improve visitor visa tracking and enforcement.

Research Design

In this section, I will outline the elements of the research design. The description is divided into four parts. First, the basic research puzzle is restated followed by a summary of the methodological approach used in the analysis and details as to the case selection. Second, the main sources of information and evidence are described. Third, the operationalisation of the dependent and independent variables is provided along with a description of how these variables are observed and measured. Finally, I conclude the section by assessing the validity and reliability of the measures and discussing the limitations of the research design. I also determine whether, in general terms, the findings of the analysis could be applied to other scenarios.

¹¹¹ Allan Gotlieb, "A North American Community of Law", Presentation to Borderlines Conference, Washington D.C., February 27, 2003.

¹¹² D.H. Burney, "Twin Pillars of Pragmatism", Canada-U.S. Law Institute Annual Conference, Canada / U.S. Security and the Economy in the North American Context, Case Western Reserve University, School of Law, Friday, April 11, 2003.

¹¹³ Standing Senate Committee on Foreign Affairs, "Uncertain Access: the Consequences of U.S. Security and Trade Actions for Canadian Trade Policy, Volume 1, June 2003.

¹¹⁴ Danielle Goldfarb and William Robson, "Risky Business: U.S. Border Security and the Threat to Canadian Exports", *Commentary* 177, C.D. Howe Institute Border Papers, March 2003. See also Peter Reikai, "US and Canadian Immigration Policies: Marching Together to Different Tunes", *Commentary* 171, C.D. Howe Institute Border Papers, November 2002.

Methodology and Case Selection

The main objective of this thesis is to determine the factors that explain the level of integration of border management policies. What conditions compel countries to join forces within the context of an issue-area traditionally associated with national sovereignty? Conversely, what are the key contributing factors that influence states to maintain control of their borders with neighbouring countries rather than adopt and implement integrated political, economic and security policies over a contiguous territorial space? Does the nature of a significant event (i.e. economic versus security-related) alter the decision-making process of governments towards deeper cooperation? The analysis presented in this paper explores these questions in the context of border management between Canada and the US. Both countries adopted a cooperative approach focused on the specific tasks, processes and methodologies of border controls rather than a more strategic and integrated framework of border management.

Border management is an issue-area closely related to traditional views of state sovereignty. Generally, national governments are not eager to adopt policies that may be viewed as detrimental to their ability to make decisions that are in the nation's interest. However, in situations where there is sufficient political will to attempt changes to such issue-areas, progress is normally incremental and slow paced. Therefore, it is important to seek a research method that effectively captures how the issue evolves over time and in which the *"dynamics of change are the primary*

focus.”¹¹⁵ Moreover, border management policies are influenced by numerous factors, some are internal to the functioning of the political process within a country and others are linked to contextual elements associated with the international political environment.

As suggested in the literature review, border management is not an issue-area that has captured the attention of scholars and analysts as a stand-alone domain of study. In general, borders have either been discounted by hyperglobalists as being a relic of a bygone era or have been considered as a sub-element of broader transnational relationships. Consequently, the political dynamics of particular border arrangements have not been adequately studied. As a result, the selected research methodology must contend with parsimonious data and a fairly weak background of scholarly work (the first might actually lead to the second). From a methodological standpoint, this creates certain limitations with respect to how the topic can be effectively analysed.

There are three observational tests that can be used - large-*n* analysis, experimentation and case studies.¹¹⁶ Experiments are generally not feasible in the social sciences and clearly would not be in this situation. Moreover, there are not enough individual cases of border management integration that would be sufficient to populate a suitable sample for a large-*n* analysis. As such, the only remaining alternative is a case analysis approach. “*Overall, large-n methods tell us more about*

¹¹⁵ Jason L. Jensen and Robert Rodgers, “Cumulating the Intellectual Gold of Case Study Research”, *Public Administration Review* 61, 2, March/April 2001, p. 238.

¹¹⁶ Stephen Van Evera, *Guide to Methods for Students of Political Science*, (Ithaca: Cornell University Press, 1997), p. 51.

*whether hypotheses hold than why they hold. Case studies say more about why they hold.”*¹¹⁷

That being said, the main critique of the case study method, especially a single case study, is that results cannot be generalised to other cases. This might not be a serious limitation as the particularities of the Canada – US context can be viewed as a case of “intrinsic importance”.¹¹⁸ Also, some critics could argue that a “crucial” case is required in the context of a single case analysis. However, the main objective of the thesis is not to test different theories. Rather, the theoretical frameworks referred to in this thesis are used to identify key variables to contemplate in the case analysis and to provide alternative explanations to the findings of the process tracing exercise.

Different approaches can be used within the broader case study method of research. As mentioned, in this paper I will use process tracing in order to “unwrap” the causal link “that connects independent variables and outcomes.”¹¹⁹ In relation to the research puzzle, this methodology is best suited for three main reasons. First, there is no unique theoretical framework that can successfully capture all of the intricacies and nuances leading to the outcome of the dependent variable – the level of integration of border management policies. However, the theories are better suited to explain the various *stages* of the evolution of border management issues. Therefore, a stage-theory approach *combined with* a process tracing methodology benefits the analysis. As the internal and external conditions influencing border management

¹¹⁷ Ibid., p. 55.

¹¹⁸ Ibid., pp. 86-87

¹¹⁹ Ibid., p. 64.

policies do change over time, a change of theoretical lens contributes to a better understanding of the dependent variable. Second, the “*decision-making process is at the centre of the investigation.*”¹²⁰ As such, process tracing is focused on exploring the various stimuli which the different actors react to in relation to domestic and international conditions. Third, the use of a “snapshot” analysis would require the measurement of the different variables at particular points in time in order to determine how they vary. With an issue-area such as border management, a valid measurement would be difficult to obtain as there would be an increased risk of missing important political considerations that occur outside of the precise time at which the measurement is taken, therefore weakening the overall explanation of the dependent variable.¹²¹

Some early historical events are used to contextualise the origins of the Canada – US relationship. However, the analysis of the development and evolution of the border between both countries focuses on the period ranging from 1993 to March 2005 and the *Security and Prosperity Partnership of North America*. This period includes significant events such as the debates surrounding the implementation of NAFTA in 1994 and the terrorist attacks of September 11, 2001. The latter is a highly significant event in the history of the continent. In fact, the repercussions of the attacks have influenced practically all aspects of transborder relationships as well as international relations that are beyond North American shores. In general, this era of intensified

¹²⁰ Alexander L. George and Timothy J. Mckeown, “Case Studies and Theories of Organizational Decision Making”, in Robert F. Coulam and Richard A. Smith, eds., *Advances in Information Processing in Organizations*, A Research Annual on Public Organizations, Vol 2. (Greenwich, CT: JAI Press, 1985), p. 35.

¹²¹ *Ibid.*, p. 36.

trade and economic cooperation has led to significant attention being placed on border related concerns culminating with the signing in December 2001 of the Smart Border Agreement. The initial agreement has evolved into a 32-point action plan intended to improve and streamline the activities related to the management of the border. Since its signature, the agreement has provided the basic philosophy from which Canada – US border management policies are developed.

The selection of the Canada – US case is insightful from the perspective of the tight economic interdependencies that exist between both countries. While Canada is heavily reliant on access to the US market for its manufacturers, the US is increasingly dependant on Canada for a large portion of its energy needs.¹²² Therefore, in an effort to mitigate the negative effects of events that could potentially damage the nature of the relationship, one would expect to observe an intensification of the link between both countries.

Some might argue that the scope of this analysis, if it does not include an assessment of the situation of Mexico, is incomplete. However, there are a number of important characteristics of the Canada – US relationship that justify a focused analysis of this case. While the US is at the centre of a dual bilateral relationship with Canada and Mexico, the trade relationship between Canada and the US is predominant. In fact, the 2003 figures for two-way trade in goods and services surpassed CAD\$441.5

¹²² Canada is the third largest supplier of crude oil and the main supplier of natural gas to the US. See Jeremy Rifkin, “Continentalism of a Different Stripe”, *The Walrus*, March 2005, p. 40. For detailed information on US imports of petroleum products see the Energy Information Administration/Monthly Energy Review available at <http://www.eia.doe.gov/>.

billion, making the Canada - US trading relationship the largest in the world.¹²³ Also, there are a number of similarities in the social and cultural characteristics of both societies. The differences between the Canada – US and Mexico – US relationships, as well as their respective histories, suggest that any significant development on border management policies will occur between Canada and the US first. Thereafter, with a template already in place, Mexico would formalise its own arrangement with the US.

Analysts generally support the position that Mexico *follows* Canada when it comes to policy innovations with the US.¹²⁴ Recently, this approach has been confirmed in the provisions of the *Security and Prosperity Partnership of North America*. The wording of the agreement specifies that “*The Partnership is trilateral in concept; while allowing any two countries to move forward on an issue, it will create a path for the third to join later.*”¹²⁵ Therefore, it is not unlikely that a comprehensive border management framework be developed between Canada and the US prior to an all encompassing arrangement covering the three countries. Consequently, my analysis will exclude Mexico notwithstanding the persistent proposals by President Vincente Fox for a common North American market or a customs union.¹²⁶

¹²³ Canadian Embassy, Washington D.C., “United States – Canada: The World’s Largest Trading Relationship”, April 2004, available at <http://www.canadianembassy.org/trade/wltr-en.asp>.

¹²⁴ Thomas J. Biersteker, “The Rebordering of North America? – Implications for Conceptualizing Borders after September 11”, in Peter Andreas and Thomas J. Biersteker, *The Rebordering of North America – Integration and Exclusion in a New Security Context*, p. 155.

¹²⁵ Joint Statement by President Bush, President Fox and Prime Minister Martin, available on the White House web site at <http://www.whitehouse.gov/news/releases/2005/03/print/20050323-2.htm>, accessed on March 23, 2005 (emphasis added).

¹²⁶ Robert A. Pastor, *Toward a North American Community – Lessons from the Old World for the New*, p.143.

Sources

A valuable source of information is the media coverage of the issue-area in each country. Specifically, the main sources of information for this thesis are the leading national newspapers accessed through “major newspaper” and “Canadian publication” searches on *Lexis Nexis*. In addition, as the nature of the research question is directly linked to bilateral and multilateral implementation of policies, another key source of information are policy documents, speeches and position papers issued by the respective Canadian and American political bodies responsible for the management of the border. Many of these sources are available on-line.

Canadian sources are taken from the Canadian Border Services Agency (CBSA), a department created by the Prime Minister on December 12, 2003. The CBSA integrates border-related responsibilities formerly spread among a number of different organisations. The main role of the CBSA is to manage the nation’s border by “*administering and enforcing approximately 90 domestic acts and regulations, as well as international agreements that govern trade and travel.*”¹²⁷ In addition, Foreign Affairs Canada and International Trade Canada are used as a source for policy documents relevant to the management of the border. Policies such as the Anti-Terrorism Act, the Public Safety Act and the Smart Border Agreement are surveyed. From an American standpoint, the main source of official information is the Department of Homeland Security (DHS). With respect to responsibilities related to

¹²⁷ See the Canada Border Services Agency web site, “Backgrounder”, available at http://www.cbsa-asfc.gc.ca/newsroom/releases/2004/1123ottawa_backg-e.pdf accessed on March 16, 2005.

the border, DHS is tasked with “*managing the nation's borders and ports-of-entry, preventing the passage of individuals or goods from entering the US unlawfully and working overseas to strengthen US defences against illegal smuggling and immigration.*”¹²⁸

Secondary sources of information include the 9/11 Commission Report and the websites of both the White House and of the Prime Minister of Canada.¹²⁹ Also, in many situations, the respective ambassadors serve as the conduit for communicating government policies in another country. In this regard, the websites of the Canadian Embassy in Washington, D.C., and the US Embassy in Ottawa offer a comprehensive array of official statements and speeches and are explored for additional insight.¹³⁰

The literature review underscores theoretical approaches that stress the significant role of domestic political actors in the decision-making process of national governments. It is therefore important to identify the main players and analyse their respective positions on the issue of border management. Canadian domestic actors are identified through Industry Canada’s Lobbyist Registration System. The *Lobbyist Registration Act* was enacted in 1989 and intended to render more transparent the activities of lobby groups who call upon government representatives in order to influence policy decisions. Following an amendment to the act in 1996, the online system was made available to the public. It allows the user to query the database by

¹²⁸ See the Immigration & Borders section of Department of Homeland Security web site available at <http://www.dhs.gov/dhspublic/display?theme=24> accessed on March 16, 2005.

¹²⁹ The White House website is available at <http://www.whitehouse.gov/> and the reference for the Prime Minister of Canada’s website is <http://www.pm.gc.ca/eng/default.asp>.

¹³⁰ The website for the Canadian Ambassador to the US in Washington, D.C. is available at <http://www.canadianembassy.org/homepage/index-en.asp>. The reference for the American Ambassador to Canada can be viewed at <http://www.usembassycanada.gov/content/index.asp>.

name, organisation, registration year, issue-area and status of the lobbyist (i.e. active or inactive).¹³¹ Similarly, the 1995 *Lobbying Disclosure Act* also required lobby groups to formally register with the US Government. As a result, the US Lobby Registration and Reporting Disclosure system was developed. Owing to the complexity of the US domestic political environment, the US source allows for queries to be made along a larger array of criteria.¹³² For example, the user can select the particular governmental agency being targeted (e.g. Senate, House of Representatives, Department of Homeland Security, etc.), the host country of the particular organisation, or the issue area of interest. Queries are limited to the list of issue-areas proposed by the system itself. A specific search using the keyword “borders” is therefore not possible. Nevertheless, the system can still allow for the identification of organisations interested in border management by conducting the search in related domains such as trade, immigration and security. Once an interest group is identified through these sources, their detailed views and positions can then be consulted further by referring to organisation-specific sources such as websites and press releases.

As previously mentioned, the main timeframe of interest is the period from 1993 to March 2005. During this period, the governments of Canada and the US adopted, independently and jointly, a number of policy initiatives with an impact on the degree of integration of border management. There are three types of policies: those

¹³¹ The search engine for the Lobbyist Registration System is available at http://strategis.ic.gc.ca/cgi-bin/sc_mrksv/lobbyist/bin/lrs.e/view_search.phtml?. The keywords used for the search by organisation type are “border”, “border security”, “border control” and “border policies”.

¹³² The US Senate Lobby Registration and Reporting Disclosure System is available at http://sopr.senate.gov/cgi-win/m_opr_viewer.exe?DoFn=0.

developed and passed independently in the respective legislatures of both Canada and the US as well as joint policy initiatives agreed to by the heads of governments or responsible ministers/secretaries. Table 4 lists chronologically these various policies along with the two key events of the beginning of NAFTA and the terrorist attacks of September 11. Appendix A broadens the content of Table 4 by providing additional political event (e.g. elections, terrorist attempts, the release of significant reports, etc.).

Table 4 – Canada – US Border Policies

Date	Canada	US	Joint
Dec. 8, 1993		Customs Modernization Act	
Jan. 1, 1994	Beginning of NAFTA		
Feb. 25, 1995			US – Canada Shared Border Accord
Aug. 1995		Immigration in the National Interest Act	
Mar. 21, 1996		Illegal Immigration Reform and Immigration Responsibility Act	
Feb. 1997			Canadian Anti-Smuggling Working Group and the Northeast Border Working Group
Apr. 1997			Border Vision Initiative
Sep. 30, 1997			Cross-Border Crime Forum
Jul. 30, 1998		Border Improvement and Immigration Act of 1998	
Oct. 1999			Canada – United States Partnership (CUSP)
Jun. 15, 2000		Immigration and Naturalization Service Data Management Act	
Nov. 2000			Beginning of the NEXUS program
Feb. 2000		Enhanced Border Security and Visa Entry Reform Act	
Sep. 11, 2001	Terrorist Attack on New York and Washington		
Oct. 24, 2001		Patriot Act	
Dec. 12, 2001			Canada – US Smart Border Declaration
Dec. 18, 2001	Anti-Terrorism Act		
Jan. 23, 2002		Enhanced Border Security and Visa Entry Reform Act of 2002	
Oct. 31, 2002	Public Safety Act		
Nov. 19, 2002		Homeland Security Act	
Mar. 23, 2005			Security and Prosperity Partnership of North America (with Mexico)

Operationalisation of the Variables

As suggested earlier, the main objective of this thesis is to determine the factors that influence the degree of integration of border management policies between Canada and the US. But how is the “level of integration” measured? What are the main characteristics of an integrated arrangement? The operationalisation of the dependent variable, in this case, relies on a comparison with an example of a highly integrated border arrangement.

The characteristics of the Schengen agreement offer an extreme case of border policy integration. There is an inherent logic to the use of a European benchmark in the analysis. As some of the theoretical approaches described in the paper were developed in an effort to explain the EU, it is fully justified to make use of a real life example from the same region.

The Schengen Agreement was originally signed on June 14, 1985, by West Germany, France, Belgium, Luxembourg and the Netherlands in an effort to accelerate the opening of borders within the European Community (EC). On June 19, 1990, the *Convention Implementing the Schengen Agreement* was signed, therefore paving the way for the abolition of common border checks and the establishment of a common area of security and justice. The arrangement culminated in May of 1999 with the signing of the *Treaty of Amsterdam* formally incorporating the Schengen process into the structure of the EU. Specifically, the arrangement specifies the elimination of

internal borders, a single external border for the area covering the territories of the signatories, common rules regarding visas, refugee rights and checks at the common external border and the implementation of a Schengen Information System (SIS) to better combat organised crime and terrorism.¹³³

While the use of the Schengen framework offers a comparative basis with some interpretive value, it is admittedly an incomplete measure. The measurement of the level of integration of the Canada – US border arrangement will be determined by its similarities to the Schengen agreement. Such an approach is essentially a measure of relativity. For example, should both countries agree to the elimination of its internal border and propose to adopt a security perimeter around its joint territory, it could be stated that the arrangement is more integrated than its original situation. This would not necessarily signify that it has reached the same level of integration as observed in the Schengen framework. As seen in the literature review, most analysts believe it is unlikely that Canada and the US will agree to such a sweeping change to its border, preferring instead a more incremental approach.

Alternatively, Table 5 lists some of the key practical rules associated with the implementation of the Schengen Agreement.¹³⁴ These more tactical rules and policies are also used in the comparison to the Schengen Agreement.

¹³³ James Laxer, *The Border*, p. 191.

¹³⁴ General details of the Schengen Agreement can be accessed on the EUROPA – Justice and Home Affairs web site, available at http://europa.eu.int/comm/justice_home/fsj/freetravel/frontiers/printer/fsj_freetravel_schengen_en.htm accessed on September 7, 2005.

Table 5 – Key Rules of the Schengen Agreement¹³⁵

- Removal of checks on persons at common EU internal borders
- Common set of rules applying to people crossing EU external frontiers, regardless of the EU country in which that external frontier is situated
- Separation at air terminals and, where possible, seaports of people travelling within the Schengen area from those arriving from countries outside the Schengen area
- Harmonisation of the rules regarding conditions of entry and visas for short stays
- Coordination between administrations on surveillance of borders (liaison officers, harmonisation of instructions and staff training)
- Definition of the role of carriers in the fight against illegal immigration
- Enhanced police cooperation (including the rights of cross-border surveillance and hot pursuit)
- Strengthening of judicial cooperation through a faster extradition system and transfer of the enforcement of criminal judgments
- Creation of the Schengen information system (SIS)

The variation of the dependent variable over time mirrors the types of border policies implemented jointly with Canada or, at some point, unilaterally by the US. In the immediate aftermath of the passage of NAFTA, a series of policies such as the *Accord on Our Shared Border*, the *Open Skies Agreement*, the *Border Vision Initiative* as well as the *Canada-US Partnership Forum* resulted in increased integration of border management policies. Greater coordination of the border was mainly aimed at facilitating the increased amount of trade catalyzed by the more open trade agreement. As a result, it was also necessary to tighten the joint policing of the border. Illegal activities were flourishing under the cloak of legitimate international business.

The events of September 11, without a doubt, caused the most interesting movement of the DV. In this respect, there are two important considerations to outline. First, the terrorist attack sparked a rapid implementation of policies leading to the highest

¹³⁵ The list of rules are reproduced from the EU – Freedom, Security and Justice web site at http://europa.eu.int/comm/justice_home/fsj/freetravel/frontiers/fsj_freetravel_schengen_en.htm accessed on September 7, 2005

degree of border management policy integration between both countries thus far achieved. The *Smart Border Agreement* is a comprehensive framework covering the main elements of border management – joint standards for documents, joint facilities, the sharing of intelligence, etc. Second, the progressive and ongoing implementation of the agreement marks the highest level of integration of border management policies, a level that has no longer evolved from its origins. The process of further border management integration has now stalled. The discourse of homeland security has resulted in the unilateral implementation of US policies affecting immigration, surveillance and increased powers for law enforcement. The Canadian reaction has been one of adopting similar policies.

In summary, the DV increased progressively from 1994 to 2001. The events of September 11 caused a rapid increase in the degree of integration of border management policies. Following the signature of the *Smart Border Agreement*, the DV has essentially reached a plateau (the degree of integration only increases marginally with the further implementation of various portions of the agreement). The profile of the variation, in this sense, resembles a step function.

The theoretical frameworks described earlier are used to describe the different phases in the evolution of the issue-area. These theories rely on different aspects to explain the outcome of cooperative arrangements. It is important to detail how the conditions, particular to these theories, can be measured. Table 6 on page 72 offers a summary of the observations associated with the theories.

The independent variable used to understand the neofunctionalist view of border management is the extent to which spillover exists over time. For example, as a result of NAFTA, an increased number of trucks are required to cross the border in order to support increased trade and just-in-time production for transborder manufacturing. Line-ups at various border crossings have increased to the point of potentially curtailing the benefits of a more liberalised trade agreement. In such a context, predictions made from a neofunctionalist perspective suggest the need for a more efficient border management process. The spillover from the trade agreement to a border management agreement to other related sectors is therefore the key driving factor of the degree of border management integration. Whether or not the overall process is ultimately managed by a supranational entity is directly linked to whether the most influential interest groups believe it to be necessary.

As a result of this dynamic, the extent of functional spillover over time increases in the immediate aftermath of NAFTA. The gains achieved through a more open trading environment are consolidated with the implementation of policies that facilitate the operations related to transborder business. However, the *Open Skies Agreement* and the *Accord on Our Shared Border* are the only examples of such policies. The events of September 11 had a dampening effect on further spillover. With trade now taking a backseat to security concerns (against the best efforts of trade-friendly interest groups), the adoption of policies that facilitate a deepening of the trade relationship is practically halted. The variability of this IV is therefore limited to some policy actions occurring immediately after NAFTA.

Table 6 – Observation Implications

Theory	Neofunctionalism	Liberal Intergovernmentalism	Transgovernmentalism	Realism
Causal Process	The political elite from both sides of the border (who are demanding more integrated border controls) join forces in an effort to change national beliefs and values as well as the views of office-holders. Where there exists functional linkages between “adjacent” issue-areas to border management, the spillover effect will lead to a widening of the scope of integration resulting in the inclusion of issue-areas that go beyond trade and economics to include issues of high politics. The final arrangement can be centrally managed by a supranational entity	National preferences in terms of border management are formed through an interaction of domestic political actors and the heads of national governments. Following intergovernmental bargaining the final arrangement, reflecting these preferences and the bargaining leverage of both countries, can be institutionally “locked-in” through a supranational entity.	Border management policies are developed through the interaction of subgovernmental networks involved in this specific issue-area. Most integrated: harmonisation Least integrated: information	In an anarchical world order, nations seek border policies that will maximise security and interests.
Hypothesis	Greater extent of functional spillover causes a greater level of integration of border management policies.	The greater the convergence of pro-integration preferences at the domestic level the greater the level of integration of border management policies among countries. Absent such convergence, the level of integration of border management policies reflects the preferences of the country with the lower relative cost of non agreement.	The greater the degree of integration of subgovernmental network(s) the greater the level of integration of border management policies.	The greater the asymmetry of power between nations the greater the propensity for the most powerful state to achieve its policy objectives.
Phenomenon being measured	Linkage of interest groups with cross border interests and border related demands Expression of support for supranational arrangement by political and economic “elites” Spillover to other areas associated with border management Presence of a supranational entity	Interests of the different countries Relative influence of the interest groups determining the national interests Bargaining leverage of the states involved	Presence of subgovernmental organisations specifically focused on border issues Evidence of different types of network (i.e. informational, enforcement or harmonisation)	Asymmetry of power Border management policies reflecting the interests of the hegemon

Influential political players have a greater probability of affecting the outcome of policies in a manner consistent with their interests. The main characteristics that define an “influential” interest group are its organisational resources, especially money and staff, as well as the members that it represents. As the relationship between Canada and the US is based on trade, interest groups related to cross-border trade will be dominant. These are also more endowed with resources to convey their message.

Liberal intergovernmentalism is viewed as a *process* that leads to a policy outcome. It places a greater importance (than neofunctionalism) on the results associated with interstate bargaining that occurs once the national preferences are established through the complex interrelationship of domestic political actors and government representatives. The two steps of the process are characterised by societal factors related to the pressure of domestic interest groups. Once these groups have formed national interests, the final policy outcome is determined through the second phase of the process, interstate bargaining.

As explained earlier, Moravcsik describes the three main determinants of interstate bargaining as being the presence of unilateral policy alternatives, the presence of alternative coalitions and the potential for compromise and linkage. It is important to take note of two important considerations. First, bargaining leverage should not be equated with power (a concept that is important for realists). Bargaining leverage is part of a dynamic and relative continuum of national characteristics that allows governments who possess them to make trade offs and deals in the pursuit of strategic interests that it

cannot achieve through raw power alone. Second, bargaining leverage is a relative concept that changes in relation to the negotiating adversary. For instance, while a particular country might hold significant advantages over state A in terms of bargaining leverage, it might be in a disadvantageous position with respect to state B.

During the study period, the societal factors related to the pressure from domestic interest groups intensify. As the more open environment created by NAFTA becomes a significant characteristic of the trade relationship, an increased number of industries and companies request further liberalisation of the border in an effort to facilitate the processes and procedures associated with transborder business. Also, increased global competition among companies in a wide array of industries strengthens the demand for simpler and more efficient transborder processes. The preference for such policies among the business elite continues to grow throughout the study period, even amidst the more prevalent security concerns of governments (and the general population) following September 11.

The underlying political factors (the intV in liberal intergovernmentalist theory) associated with the bargaining leverage of a country, does not vary as much. The main concern for Canada with respect to the transborder relationship is trade. Canadian manufacturers are highly dependent on access to the US market for its goods. While there are signs, at the later stage of the study period, that the US is seeking preferential access to various sources of Canadian energy and fresh water, bargaining leverage is

asymmetrical. The US clearly has greater bargaining leverage than Canada throughout the study period.

The basis of transgovernmentalism is that policy activities are increasingly developed in settings that are outside of the realm of traditional governmental actions. Rather, a vast array of different types of networks comprised of actors below the Cabinet/Secretary level is at the forefront of establishing policies and agreements. The type of network is significant in the determination of the level of integration that exists with respect to a particular issue-area. The independent variable is therefore characterised by two specific criteria. First, there actually needs to be a network in existence for this theory to be applied. Second, the types of exchanges that are occurring within the network (or networks, as there could be more than one type operating simultaneously) will be characteristic of various degrees of integration – from mere information sharing to the actual harmonisation of policies.

Over the study period, there is little evidence of transgovernmental networks, related to border management, that are more integrated than enforcement networks. Essentially related to law enforcement, these networks emerged with the implementation of the *Cross-Border Crime Forum* and have evolved little in scope (although they have expanded geographically) from the adopted format as *Integrated Border Enforcement Teams*.

Realism offers a more direct approach to the interaction of states over border policies. The dynamics of the relationship are driven by the interests of the most powerful actor. Particularly through “go-it-alone” power, the stronger state relies on its relative power position in order to proceed unilaterally and impose its will on weaker partners. In this case, the operationalisation of the independent variable, relative power, is therefore the evidence of unilateral policy actions by the most powerful partner. Over the period of the study, the unilateral implementation of policies having a direct impact on the level of integration of border management policies is especially prevalent in the aftermath of September 11. Immediately following NAFTA, when issues related to trade were the essential driver of border policies, there is little evidence of unilateral activity on the part of the US (except for some immigration policies essentially related to the southern border that were the topic on intense domestic debates). While the relative power advantage of the US over Canada is prevalent throughout the study period, the observable utilisation of this power advantage is significant following the terrorist attacks.

Table 7 summarises the measurements of the independent variables for each theoretical framework.

Table 7 – Measurement of the independent variables

	<i>Neofunctionalism</i>	<i>Liberal Intergovernmentalism</i>	<i>Transgovernmentalism</i>	<i>Realism</i>
IV	Spillover	Underlying <u>societal</u> factors: Pressure from domestic societal actors (represented in political institutions)	Type of intergovernmental network	Relative power
IntV	Pressure for supranational policy coordination	Underlying <u>political</u> factors: Intensity of national preferences Alternative coalitions Available issue linkages, compromises		
Measurement	Presence of cross border trade related interest groups with resources operating in a significant issue area related to border issues. Evidence of a formal relationship between trade and border policies	Positions of influential interest groups Bargaining position of the states involved (as defined by the IntV) Final policy outcomes	Presence of network(s) of subgovernmental actors active with respect to border management Type of exchanges characteristic of the network(s) (i.e. information sharing, enforcement protocols, harmonisation of policies and processes)	Unilateral policy actions by the most powerful partner Perception of mutual threats to the region

Methodological Challenges

The application of a process tracing methodology to the case of Canada – US border management is susceptible to a number of methodological challenges. In this section, three potential areas of critique are addressed. First, the validity and reliability of the measures of the variables are discussed. Second, weaknesses of the research design on a more general scale are described. Finally, the potential application of the findings of this thesis to other regions or issue-areas is explored.

Validity and Reliability of the Measures

The appropriateness of the measurement of a particular variable is expressed through two different criteria. First, considerations as to the *validity* of the measurement indicate whether it adequately captures what it is intended to measure. Failure to have valid measures will negatively impact the conclusions. Second, the *reliability* of a measurement determines whether it can be easily duplicated by another researcher attempting to conduct a similar analysis. If the measurement of a variable is unique to the approach of a particular analyst, it provides little value for the replication of the same analysis or the application of the methodology to other cases.

As described earlier, the dependent variable is expressed as the level of integration of border management policies. Its measurement is essentially based on a comparison to a predefined yardstick, in this case the Schengen Agreement in Europe. Structured in such a way, the direct comparison of the characteristics of the Canada – US border management approach to the Schengen framework, an extreme case of integration, offers a valid measurement, but one which is limited to determining of how close the Canada – US case is to the yardstick. While the selection of the Schengen Agreement as the benchmark could allow another analyst to make consistent conclusions to the ones offered in this thesis, some cautionary comments are necessary. It is possible that a high level of border management integration could be achieved without necessarily observing some of the key characteristics of the Schengen Agreement. Technological and institutional innovations could allow for an alternate integrated border policy model to be

present that is different from the Schengen philosophy. I do not view this as being a serious shortcoming in the use of the Schengen model as a preliminary yardstick. However, it is important to underscore the potential for alternate approaches to integrated border policies to be applied in North America.

The level of influence of an interest group is determined by two aspects. First, there are the organisational resources of the entity, namely the availability of money and staff. In most cases, it will be relatively easy to actually find precise information about such characteristics as most organisations that attempt to influence government officials need to be formally registered. From that standpoint it is a valid measurement. Second, the size and the level of influence of the “membership” of a particular interest group is also an important characteristic. For example, the Canadian Chamber of Commerce is the country’s largest and most representative business association; it represents 170,000 members in over 350 local chambers of commerce.¹³⁶ Such a group, under the criteria described here, would be considered an influential interest group. While such information is easily available, the validity of the measurement could be compromised by the natural tendency of some interest groups to exaggerate the actual influence of their members. Ultimately, the influence of an interest group is better measured by evidence of its positions appearing in actual policy initiatives.

This analysis focuses on the significance of trade-related interest groups. Is this a sound approach? By virtue of NAFTA, most analysts would suggest that trade is the

¹³⁶ Canadian Chamber of Commerce, “Smart Border Progress Between Canada and the United States Welcomed”, *Canada NewsWire*, June 28, 2002.

predominant domain of public policy affecting both countries. However, others would argue that security is gaining momentum as the primary transborder issue. Nevertheless, outside of trade and security, there is little space available on the political agenda for alternate policy areas of equally significant importance. As a result, the validity of this part of the overall measurement is adequate. In combination, both aspects of the variable would lead most researchers in the same direction as to the identification of the most significant players, therefore leading to the conclusion that the measurement is also reliable.

The measurements associated with liberal intergovernmentalism are related to the two steps of the process. First, the societal factors portion of the process requires a detailed determination of the position of a particular interest group. Such information is normally explicit in the various public declarations of the organisation and therefore has a high level of validity. The second part of the process relates to interstate bargaining of which the characteristics are outlined in Table 7. The determination of bargaining alternatives is somewhat subjective.¹³⁷ Establishing alternatives options, whether these are other policies, coalitions, or compromises and linkages, amounts to analysing “what if” scenarios. This is an approach that serves as a best approximation of the consequences of non-agreement.

The variable “type of governmental network” in existence between both countries has two parts. First, there needs to be evidence of the existence of one or more networks in

¹³⁷ If everything was clear and unambiguous during interstate negotiations, bargaining sessions would conclude quickly without ever being mired in contentious issues.

operation. Second, if these exist, what are the characteristics of the exchanges between the players? From a validity standpoint, the definition of a subgovernmental network is unambiguous and the determination of the existence of a network is simple to make. However, the relationships that exist within a particular network are more difficult to interpret. As a result, different analysts might interpret the policy outcomes from these networks differently. Therefore, one must be cautious in the formulation of conclusions. Although the theoretical foundations of transgovernmentalism is clear as to what constitutes an information sharing, enforcement and harmonisation network, the reliability of this particular measurement is more dependent on the interpretation of the analyst.

In isolation, the occurrence of unilateral policy actions by a nation is not a direct assessment of its relative power. However, in circumstances where the action is taken by *the* most powerful player in an interstate relationship, the context is dramatically different. The measurement must therefore identify the most powerful player in the relationship. However, even when the circumstances allow for a clear and unambiguous identification of the most powerful player, the occurrence of a unilateral policy decision faces an important validity question. Is the action taken by the most powerful player truly unilateral or is it the result of a secret or unadvertised arrangement? In this respect, caution is required (a process tracing approach can possibly help alleviate this) to ensure that the action is absent such secretive undertakings. In certain circumstances this might be impossible to know. Generally, actions taken by powerful nations are very visible, whether they are the result of covert dealings or the unilateral exercise of its superior

power. As a result, from a reliability standpoint, the occurrence of such actions cannot be ignored by other analysts.

In summary, the measurements described have limited validity. Nevertheless, in the context of a policy domain that has not been extensively analysed, these measurements offer some insight related to the purpose of the thesis.

General Critiques of the Research Methodology

The research approach developed here has limitations and is susceptible to more general critiques. There are three areas of potential challenge. First, some will argue that using a theoretical framework heavily influenced by the experience of the EU is ill-advised and inappropriate for the analysis of a North American case. However, the basis of the EU integration process was driven by commonly perceived security *and* economic imperatives. While it is true that, until now, the road to further integration in North America has been mainly driven by economic considerations and formalised by a rule-based framework, the threat of global terrorism and other transborder criminal activities adds a common security dimension. This allows for some level of comparison.

Second, much has been written about the importance of societal values and norms with respect to the prospects of deeper regional integration. It is argued that nations of similar macro-level ideologies (i.e. democratic values) have greater ease in integrating and adopting joint policy positions. Consequently, while some analysts propose a

constructivist explanation of regional integration in the case of Canada and the US, others have suggested that the values and norms are divergent and are growing increasingly dissimilar *within* these countries¹³⁸. In this respect, it becomes somewhat difficult to assess the impact of common values and norms on border management as their underlying characteristics are not uniform within the country. However, this does not prevent a constructivist explanation as to why integration would be difficult or unachievable. However, in consideration of the focus placed on other types of theories, a more in-depth account of constructivism in relation to border management policies will be left to further study.

Third, the selection of the timeframe of the analysis could also be challenged. Other analysts might prefer a longer or shorter timeframe to analyse the factors that contribute to the development of border management policies. The view held here is that the lead up to the implementation of NAFTA is a suitable event to begin the analysis. The dramatic increase of economic interdependence among the signatories ushered in a new era where border management became a key issue. The selection of this timeframe also offers the opportunity to analyse and compare the decision-making process of governments in the midst of different types of significant events, one economic (NAFTA), the other security-related (September 11).

¹³⁸ For a detailed analysis of the differences in the value systems between and within both countries see Michael Adams, Fire and Ice – The United States, Canada and the Myth of Converging Values, (Toronto:Penguin Canada, 2003).

Possible Application to Another Scenario

While the specific case selection and methodology provide limited external validity, the findings could potentially be applied to another case with somewhat similar characteristics. The case of MERCOSUR has some of the elements of the Canada – US situation. In particular, the imperative to join forces was initiated by economic considerations and Argentina plays the role of the regional economic powerhouse (similar to the US with Canada and Mexico) over the smaller partners, Brazil, Paraguay and Uruguay. Moreover, similar to NAFTA, MERCOSUR is a trade agreement that maintains the individual identity of the partners in other policy domains. While it has gone further than NAFTA in adopting a common market approach to its economic and trade relationship, it has not yet implemented a common external tariff (CET) or a customs union. With respect to the comparison to the Schengen Agreement benchmark, MERCOSUR has not yet achieved a fully integrated approach to border management. Therefore, the comparison could be interesting from the perspective of understanding the next steps of the process in a South American context.

Beyond advancing the understanding of the specific Canada- US situation with respect to border management, the results of the process tracing analysis could offer some insight into the prospects of further regional integration at the North American scale. As seen through the experience of deep political integration and integrated border management of the Schengen Agreement in the EU, border management is an integral part of the regional

integration process. In this regard, the analysis presented here provides some indication as to the potential for further integration.

Case Analysis

This section of the paper presents the process tracing analysis covering the period from 1993, the precursor year to the start of NAFTA, to the signing of the *Security and Prosperity Partnership of North America* in March of 2005. The case analysis is divided in two parts. First, I conduct a detailed narrative of the different political events that have characterised the evolution of border management policies for the study period. While I refer to some early examples of cooperation between Canada and the US, this is done merely to contextualise the types of arrangements that have historically defined the relationship between both countries. Second, I extract from this narrative the most relevant events that explain the process leading to the current level of border management policy integration as well as discuss the applicability of the four theoretical frameworks described earlier.

A Story of Targeted Cooperation

Two Imperatives of Cooperation

The relationship between Canada and the US took shape in the early stages of North American history. The realities affecting both countries were somewhat similar. Much of

the rationale for their respective political actions was driven by the intent to sever ties with Europe. The US, through the Monroe Doctrine in 1823, declared that Europe was not to “become entangled” in American affairs.¹³⁹ Later, this position took on a more expansive nature by virtue of the so-called Roosevelt Corollary to the Monroe Doctrine “that openly justified American intervention throughout the Western Hemisphere.”¹⁴⁰ Through such actions, the US was sending clear and unambiguous signals that it intended to play a significant role on the continent and, as its involvement in European reconstruction following WWII suggested, in the world. Simultaneously, and more modestly, Canada was looking to increase its independence from the British Empire

Over time, the relationship would come to be characterised by two main aspects. First, the complex interaction of a strong and powerful state neighbouring a so-called middle power formed the basis of an interdependence that was driven by the vast imbalance of economic and military strength. Second, as an emerging world power with a self-proclaimed policing role over the continent, the US became responsible for the region’s security.

Canada’s interests, in areas such as economic development, were therefore achieved through cooperation on security and defence issues. By virtue of its geographical position on the continent, Canada’s security was in the national interest of the US. This dependence extended into the economic aspect of the relationship. Canada needed to

¹³⁹ Henry Kissinger, *Diplomacy*, (New York: Simon & Schuster, 1994), p. 35.

¹⁴⁰ John J. Noble, “Fortress America or Fortress North America?”, Paper Prepared for the IRPP Conference on *North American Integration: Migration, Trade and Security*, Ottawa, April 1 to 2, 2004, p. 4. The paper was accessed at <http://www.irpp.org/events/archive/apr04/noble.pdf> on July 15, 2005.

guarantee its access to the larger American market for the export of its natural resources, a *quid pro quo* that many think should still form the backbone of Canada's policy approach toward dealing with the US. Thus, common interests persist.

As a result of this interdependence, the early efforts at cooperation focused primarily on defence. However, there were indeed some exceptions. The *Boundary Water Treaty* of 1909 created *The International Joint Commission*, a structure created to regulate water levels and flows, monitor water and air pollution as well as assist with dispute prevention and resolution. While shared geography required such joint structures, the imperatives of transborder cooperation were essentially driven by the tenuous world order that existed in the pre-war years.

Leaders from both countries made public commitments in an effort to ensure the recognition of each other's security. For example, in 1938 during a speech at Queen's University, US President Franklin Delano Roosevelt declared that "*The Dominion of Canada is part of the sisterhood of the British Empire. I give you the assurance that the people of the United States will not stand idly by if the domination of Canadian soil is threatened by any other Empire.*"¹⁴¹ As a response to its American self-proclaimed protector, Canada, through the comments of Prime Minister William Lyon Mackenzie King, tried to reassure its southern neighbour by stating that "*we too have obligations as a good and friendly neighbour and that enemy forces should not be able to pursue their*

¹⁴¹ The full text of the speech in Kingston on August 18, 1938 is available at <http://history1900s.about.com/gi/dynamic/offsite.htm?site=http%3A%2F%2Fwww.ibiblio.org%2Fpha%2F7-2-188%2F188-toc.html>, accessed on June 22, 2005. Also see John MacCormac, "Roosevelt's Arms Pledge to Canada is Held Vital Factor in Her Future", *New York Times*, August 19, 1938, p. 1.

*way either by land, sea or air to the United States across Canadian territory.”*¹⁴²

Ironically, the contrast of these comments continues to exist today in the current post-September 11 North American environment. Canada tries to balance its reputation as an open society while continuously attempting to reassure the US that it does not harbour terrorists.

Some authors have suggested that the early examples of cooperation were linked to the development of a North American “security community”.¹⁴³ Specifically, “*when actors share a political identity, and this identity is infused with norms of peaceful conflict resolution, states can come to expect that their disputes will be settled without recourse to violence*”¹⁴⁴ The existence of a collective North American identity, essentially “based on the undefended border”, made both respective countries “greatly discount the threat of war” even in cases and situations of “tense disputes and crises”.¹⁴⁵ The end result of this dynamic was a relationship characterised by a high level of trust especially following World War I.¹⁴⁶ In fact, the interwar years led to an internalisation of an identity termed by Shore as “north Americanism” and ultimately the creation of a shared identity based on peaceful coexistence. In this respect, “*the undefended border became the centrepiece of the discourse of north Americanism*” and would become the backdrop from which the relationship would evolve.¹⁴⁷

¹⁴² Prime Minister MacKenzie King’s quote can be accessed at <http://www.dfait-maeci.gc.ca/canada-magazine/issue06/6t12-en.asp>, accessed on June 22, 2005.

¹⁴³ Sean Michael Shore, “Building Stable Peace: The Development of the North American Security Community, 1814-1940”, PhD Dissertation, University of Wisconsin – Madison, May 1998.

¹⁴⁴ Ibid., pp. 2-3.

¹⁴⁵ Ibid., p. 3.

¹⁴⁶ Ibid., p. 192.

¹⁴⁷ Ibid., p. 193.

The emergence of a trusting relationship therefore became an important enabler of the early efforts of cooperation. These were intimately linked to defence and were embodied in the creation of a number of institutions. The first mutual defence agreement between Canada and the US was the Permanent Joint Board of Defence (PJBD) in 1940.¹⁴⁸ In Canada, the creation of the PJBD was perceived as beneficial to the country's national security in a similar fashion to the Monroe Doctrine. Following World War II, Canada became a charter member of the United Nations (UN) and the North Atlantic Treaty Organisation (NATO). The latter, while not a bilateral arrangement with the US, was indicative of Canada's foreign policy preferences. Canada's participation in NATO was consistent with a direction that stressed a multilateral approach to deal with conflicts in the world. Some have argued that this approach was a clever way of maintaining a degree of influence on the world stage with a reduced level of defence spending and a focus on other domestic and international policy priorities.¹⁴⁹ However, security concerns would still compel Canada to turn toward its more powerful southern neighbour. The creation of the North American Air Defence System (NORAD) in 1959 was a bilateral setting to address common threats to the North American continent, in this case, manned Soviet bombers. Through NORAD, Canada agreed to install a series of command posts in its northern territories (without raising concerns over compromising sovereignty), thus ensuring a full continental coverage to intercept incoming threats.

¹⁴⁸ Charles Hurd, "Joint Board to Act – Agreement by President and Prime Minister Reached at Border", *New York Times*, August 19, 1940, p. 1.

¹⁴⁹ Andrew Cohen, *While Canada Slept – How We Lost Our Place in the World*, (Toronto, Ontario: McClelland & Stewart Ltd., 2003), p. 44.

These early examples of cooperation demonstrate that in the face of a commonly perceived security threat, the imperatives to cooperate can overcome domestic political issues and create a greater willingness to jointly develop policies. However, as time progresses and the nature of the threats change, the driving forces that compel both countries to deepen its level of cooperation with respect border control also changes. Some of the institutions described above still exist, in some cases close to their original form. This has led some analysts to believe that the concept of perimeter security has been practiced between Canada and the US for over half a century.¹⁵⁰ This therefore creates a basis from which further levels of cooperation on border management could be developed should sufficient political will exist in both countries.

The end of the Cold War significantly altered the cooperative environment. Governments could now shift their respective focus from the imperatives of defence and security toward the realities of a more open world. Thus liberated from the confining grip of an East versus West paradigm, many of the more modern states were now ready to benefit from the peace dividend. Trade on a global scale would now dominate the international agenda of most governments. In the specific context of North America, for Canada in particular, the main characteristic of the prevailing environment would be how to coexist with the world's only remaining superpower. For a country such as Canada, this new reality would also be portent of new and significant policy challenges.

¹⁵⁰ John J. Noble, "Fortress America or Fortress North America?", p. 10.

Caught Between Trade and Security

In the early 1990s, increased trade liberalisation reduced the importance of the border. The prevalent discourse at the time praised the wisdom of free markets. This was not a view held merely in North America. As globalisation increased the degree of economic interdependence the world over, the perceived significance and role of borders were significantly altered. In instances where border management was being discussed, it was done with little to no public attention. It was as if the natural progression toward more open world business necessitated increased flexibility with respect to border management. The traditional roles of borders were vanishing as a result of the necessities of the global free market. While this renewed free market discourse was opposed by some, it was essentially finding more allies than foes among nations desirous to be part of the large trading club of nations.

With respect to the prevailing environment in North America and the run-up to the final implementation of NAFTA, there were a number of suggestions made as to the need to adapt border inspection policies and to increase the exemptions for the carriage of goods from one country to the next. While Canadian shoppers, in general, were pleased to avoid paying the recently implement General Sales Tax (GST) by purchasing goods south of the border, this could only be sustainable as long as the currency spread did not wipe out all potential savings. American merchants were concerned that more liberal allowances with respect to duty free exemptions would be detrimental to US-based businesses. This

was especially true in a context where American consumers would now have easier access to duty free goods from Canada.

The *Customs Modernization Act* of 1993 grew out of some of these concerns. In addition, the view held by many members of Congress was that policing of the US borders required significant improvement in order to cope with the growing pressures of trade and the higher frequency of individual crossing at both borders.¹⁵¹ In particular, President Clinton needed to ward off apprehension related to the potential flood of immigration and trade crossing the southern border. As a result, in order to ensure congressional ratification of NAFTA, a trade agreement that had originally been negotiated by President Bush, Clinton reassigned patrol agents to the border with Mexico. Additionally, the Act placed more responsibility on importers for the correct declaration of the value of imported merchandise, thus changing the nature of the already complex trading relationship between both countries. The *Customs Modernization Act* became an integral part of NAFTA and was included as Title VI of the final legislation.

The implementation of NAFTA marked a milestone in the long history of vocal and passionate debates related to the acceptance of free trade on the continent. When Canadian Prime Minister Brian Mulroney raised the issue of entering a free trade agreement first with the US, through the *Canada – US Free Trade Agreement* (CUSFTA), then together with Mexico to form NAFTA, it was the first attempt since

¹⁵¹ Christopher Sands, “Terrorism, Border Reform, and Canada-United States Relations: Learning the Lessons of Section 110”, keynote address for the conference “Linkage Across the Border: The Great Lakes Economy”, April 4, 2002, p. 2. Available at http://www.csis.org/americas/canada/020404_terrorism.pdf accessed on May 17, 2005.

1911 when the issue of free trade with the US led to the electoral defeat of Prime Minister Laurier.

The final passage of NAFTA was equally difficult for both Canadian and American political leaders. In fact, President Clinton relied on an alliance with Republicans in order to pass the trade agreement as members of his own party, especially those with close ties to labour unions and environmental NGOs, did not support NAFTA.¹⁵² In the context of globalisation, while increased trade on a North American scale was required to stay competitive with the EU and the emerging Asian markets, it did not guarantee acceptance of increased continental economic integration. The populations on both sides of the border did not perceive the economic threat as serious and domestic divisions within both countries continued to exist. This would also prevent deeper integration with respect to the strategic significance of the border. The border was still perceived as an obstacle that needed to be cleared in order to facilitate increased trade.

In February of 1995, President Clinton made his first official visit to Canada amidst a tense domestic political environment. The political leadership in Quebec was ramping up efforts to conduct a second referendum on separation and Prime Minister Chrétien was eager for visible support from the American leader. In return, Chrétien publicly endorsed Clinton's foreign policy objectives that were being attacked by the Republican-dominated

¹⁵² David E. Rosenbaum, "A 234-to-200 Tally", *New York Times*, November 18, 1993, p. A1.

Congress. Specifically, Congress was calling for major cuts to Third World aid and peacekeeping, elements of Clinton's foreign policy objectives.¹⁵³

On the eve of the summit in Ottawa, President Clinton cancelled a plan to charge a fee to individuals entering the US across its land border. Under the proposal, a charge of US\$3 for each vehicle and US\$1.50 for each pedestrian crossing would be levied. The proceeds would then be channelled toward the battle against illegal immigration.¹⁵⁴ The President's advisors quickly came to the conclusion that such a measure would be detrimental to the relationship with Canada and monopolise the focus of the two-day meeting. A similar measure had already been voted down by Congress back in 1993 when the border states of New York, Arizona and Texas fought to have the bill defeated. These states had high volumes of cross-border shopping. California supported the measure as concern over illegal immigration from Mexico was peaking.¹⁵⁵

At the summit, both countries signed the *Accord on Our Shared Border*. In particular, the agreement "*recognizes that improving the efficiency of our shared border requires cooperation and coordination.*"¹⁵⁶ A number of specific principles governed the commitments of both governments: promoting international trade, facilitating the movement of people, providing enhanced protection against drugs, smuggling and the illegal and irregular movement of people and reducing costs to both governments and the

¹⁵³ Carol Groar, "Clinton Extols Partnership President Praises Canada's "massive potential"", *Toronto Star*, February 25, 1995, p. A25.

¹⁵⁴ Douglas Jehl, "Bowling to Critics, Clinton, Abandons Plan to Charge Border Fee", *New York Times*, February 23, 1995, p. A7.

¹⁵⁵ "Welcome, neighbour! Clinton eyes border tax", *The Toronto Star*, February 4, 1995, p. A3.

¹⁵⁶ "Canada – United States Accord on Our Shared Border: Update 2000", available on the website of Citizenship and Immigration Canada at <http://www.cic.gc.ca/english/pdf/pub/border.pdf> on page 3. Accessed on May 17, 2005.

public.¹⁵⁷ In an apparent effort to demonstrate the practical benefits of a more open relationship, both countries also signed the *Open Skies Agreement* greatly liberalising the air transportation market. The agreement would allow Canadian carriers to fly to any US destination. US carriers would also gain similar rights within Canada after a three-year waiting period to account for the greater number and size of American carriers.

Fuelled by some of Clinton's campaign promises, the momentum toward a more open border continued. The Democratic candidate's electoral platform included a promise to "reinvent government". The implementation of the initiative was assigned to a special task force called the National Performance Review chaired by Vice President Al Gore. Specifically, the project included a planned reduction of 100,000 federal government employees as well as the search for other savings and more efficient ways to serve the public.¹⁵⁸ As part of the overall staff reduction objective, a proposal considered revolutionary by many suggested the elimination of immigration and customs inspections at airports and border crossings. The recommendation was controversial, pitting different stakeholders against each other in a renewed public debate about the country's borders.

On one side of the issue, states bordering Mexico were greatly concerned about the potential influx of illegal immigrants. California Senator Diane Feinstein expressed concern that the plan would impact the nation's fight against drugs, terrorism and illegal immigration.¹⁵⁹ The alternate position was mainly expressed by the Air Transport

¹⁵⁷ Ibid., p. 3.

¹⁵⁸ Bill Clinton, *My Life*, (Alfred A. Knopf: New York, 2004), p. 513.

¹⁵⁹ H.G. Reza, "U.S. Eyes Open Border with Canada May Eliminate Airport, Crossing Inspections", *Toronto Star*, August 27, 1995, p. A3.

Association (ATA), an industry organisation representing airlines in Canada and the US. Reducing the costs associated with the flight delays ensured the support of the proposal by airlines.¹⁶⁰ However, criticism of the proposal was expressed by the by US Customs Commissioner, George Weise, who bluntly termed the proposal a “bad idea”.¹⁶¹ The recommendation was never implemented.

Domestic Pressure for Greater Scrutiny

In August of 1995, on the heels of the Clinton administration’s failure to pursue its move toward more open borders and the elimination of customs inspections, the proverbial pendulum swung in the opposite direction. *The Immigration in the National Interest Act* was to become the counterpart of the *Customs Modernization Act* of 1993. Its main purpose was to reform an array of regulations and procedural requirements in the legislation governing the Immigration and Naturalization Services (INS). However, when several amendments caused its passage to be delayed, it was renamed the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*. The focus on facilitating greater commercial openness was shifting. For many, it was now important to establish more stringent controls on who entered the US.

The *Illegal Immigration Reform and Immigration Responsibility Act* was adopted on March 21, 1996. The Act included provisions that focused on tighter control of the southwest border and increased border enforcement by authorising the hiring of 1,000

¹⁶⁰ Ibid., p A3.

¹⁶¹ Sam Fulwood III and Craig Turner, “Opening US-Canadian border a bad idea, says Customs Chief”, *The Houston Chronicle*, August 31, 1995, p. A11.

new border patrol agents and 300 border patrol support personnel each year from 1997 through to 2001. Its main objective was to facilitate legitimate travel to the US. This was achieved by addressing the long delays at the ports of entry through the hiring of additional customs inspectors.

The introduction of the Act marked the beginning of an intense debate about the methods of controlling the entry and exit of individuals to and from the US. In particular, Section 110 of the Act directs the INS, starting in October of the same year, to record foreigners departing from and arriving in the US, in order to track individuals who overstay their visas.¹⁶² The proposed regulation quickly sparked concern among stakeholders who feared that chaos would ensue at the different border crossings. Businesses with operations on both sides of the border as well as the tourism and trucking industries were the most susceptible to the side effects of the new regulations. The US Chamber of Commerce predicted that delays at border crossings would be in the range of 17 hours.¹⁶³

The debate involved interest groups and politicians from both sides of the border. The efforts to repeal the regulations were driven by entities such as the Canadian-American Border Trade Alliance, the US Chamber of Commerce as well as Americans for Better Borders. The most vocal Canadian advocate to repeal the regulation was the Canadian Ambassador to the US, Raymond Chrétien.¹⁶⁴

¹⁶² "Legislation to ease US border checks gets support", *The Ottawa Citizen*, April 24, 1998, page B4.

¹⁶³ Julian Beltrame, "US Senate repeals crackdown that would have clogged border", *The Ottawa Citizen*, July 24, 1998, page A7.

¹⁶⁴ Kathleen Kenna, "Group takes aim at the border law; US government, business officials seek to repeal it", *The Ottawa Citizen*, December 1, 1999, p. 1.

The attempt by some members in Congress to unilaterally implement a border control policy, via measures included in Section 110, did not gain widespread support. In fact, domestic support for the proposed measure was not unanimous. The policy was most strongly supported by politicians of southern-border states determined to keep the law intact in order to stem illegal immigration, terrorism, drug trafficking and smuggling emerging mostly from Mexico.¹⁶⁵ It is interesting to observe that an American bill was ultimately defeated through a coalition of entities from both Canada and the US. The coalition also fuelled internal governmental battles in the House of Representatives among northern and southern state politicians. In fact, the US Senate previously repealed the proposed law on three different occasions.¹⁶⁶ The debate over Section 110 is an example of private sector activism. In the end, the implementation of Section 110 was delayed until March 2001.

Changing Role of the Border Requires Continued Cooperation on Law Enforcement

In November 1996 and June 1997 respectively, of President Clinton and Prime Minister Chrétien were re-elected. With the political leadership in both countries intact, dramatic changes to the degree of border management integration was not expected. In fact, cooperation continued to be characterised by a focus on law enforcement matters, specifically smuggling. In February of 1997, Canadian Solicitor General Herb Gray announced the creation of a new coordinating group to work with US authorities on

¹⁶⁵ Ibid., p. 1.

¹⁶⁶ Frederic J. Frommer, "Border arrests bolster controversial US law: New rule would require tracking all foreigners beginning 2001", *The Ottawa Citizen*, December 26, 1999, p. A14. Also see Chad Skelton, "Controversial border law revived in US: Recent terrorist scares have prompted politicians to look at stiff screening of visitors", *The Vancouver Sun*, December 27, 1999, p. A3.

cross-border smuggling.¹⁶⁷ Known as the *Canadian Anti-Smuggling Working Group*, the main purpose of the entity was to coordinate an intensified campaign by national immigration and law enforcement resources in each country in an effort to jointly combat human and contraband smuggling through Ontario and Quebec into New York and some New England States. The American counterpart organisation was named the *Northeast Border Working Group*.

In April 1997, Prime Minister Chrétien travelled to Washington for his first official state visit to the American capital. With the visit occurring close to a potential June election call in Canada, some considered the summit to be a mere photo opportunity for the Canadian Prime Minister. In fact, only 70 minutes of official talks were planned between both leaders to discuss issues such as bilateral trade, the environment, renewal of the Haiti peacekeeping mission, the situation in Bosnia, enlargement of NATO and problems facing the UN.¹⁶⁸ However, it was expected that during private meetings, there would be opportunities for more in-depth discussions on these issues.

The mutual political benefits of the relationship were again in full view during the meeting. Clinton, as he had done during his previous visit to Ottawa, advised of his willingness to comment on the benefits of a united Canada. In return, Clinton needed Chrétien to pressure Republican leaders Newt Gingrich and Trent Lott for fast track

¹⁶⁷ Canada, Public Safety and Emergency Preparedness Canada, "Gray: Special Anti-Smuggling Coordinating Group", available at http://www.psepc.gc.ca/publications/news/19970207_e.asp , February 7, 1997, accessed on September 16, 2005.

¹⁶⁸ James Travers, "PM set for first official visit official Washington visit, Chrétien, Clinton to discuss trade, Haiti", *Toronto Star*, April 6, 1997, p. A11.

authority to negotiate a hemispheric trade deal.¹⁶⁹ In the end, the meeting did not produce any major new policy initiatives. However, announcement of the *Border Vision Initiative* constituted a follow up arrangement to the *Accord on Our Shared Border* signed earlier in Ottawa. Specifically, the agreement called for modernised technology to allow round-the-clock crossings at 22 pairs of border towns by 2000, the first joint Canada-US customs and immigration facilities to be built at the Coutts, Alberta / Sweetgrass, Montana crossing, and the first commercial vehicle-processing centre to be built at the Peace Bridge crossing at Fort Erie. In addition, the arrangement planned for increased cooperation in locating missing and abducted children, a working group to combat cross-border telemarketing fraud as well as a high-level consultative mechanism on criminal justice and law enforcement to improve cooperative action against crime.¹⁷⁰

The level of cooperation in existence thus far was not being altered. The main focus of border control continued to evolve in the direction of joint activities aimed at fighting cross-border crime. Of great concern was the threat of money laundering by organised crime. This continued cooperation materialised in the form of the *Cross-Border Crime Forum*, a bilateral consultative mechanism to address cross-border crime issues. While such a law enforcement cooperative arrangement had already existed in the form of *Project North Star* that aimed at enhancing communication, cooperation and partnership between Canadian and US law enforcement personnel, the key objective of the Forum was to address other important cross-border crime issues and to include the participation of a wider number of agencies from each country.

¹⁶⁹ Julian Beltrame, "Chrétien, Clinton spar with a smile", *The Record* [Kitchener-Waterloo, Ontario], April 9, 1997, p. A2.

¹⁷⁰ *Ibid.*, p. A2.

The main advancement of this deepening level of cooperation was the establishment and testing of *Integrated Border Enforcement Teams* (IBET) along the British Columbia – Washington State border. Specifically, an IBET is a “*multi-agency group of law enforcement officials within a specific geographic area along the border dedicated to securing the integrity of the border. It operates through the sharing of information and technology and the coordination of all activities in order to minimise the duplication of efforts.*”¹⁷¹ Over time, the number of IBETs expanded to 14, covering different locations along the Canada – US border and providing coast to coast coverage. However, since its first implementation, the scope of activity of IBETs expanded to include the search for terrorists and weapons of mass destruction.¹⁷²

In July of 1998 as a result of easing concern over illegal immigration mainly due to some of the well-publicised successes of the IBETs, Congress decides to lift the October 1999 deadline to implement Section 110. It did so by passage of the *Border Improvement and Immigration Act of 1998*. The new legislation also provided modest funding for the development of an automated entry and exit control system to facilitate the implementation of Section 110.

In October of 1999, as a continuation of the spirit of the *Shared Border Accord*, Clinton and Chrétien pursued the cooperative nature of the management of its common border through the establishment of the *Canada – US Partnership Forum* (CUSP). During their

¹⁷¹ Canada, Office of the Minister of Citizenship and Immigration, “Canada-United States Issue Statement on Common Security Priorities”, December 4, 2001 accessed on September 7, 2005 at <http://www.cic.gc.ca/english/press/01/0126-pre.html>.

¹⁷² Tom Godfrey, “Border Beefed Up, Canada, US Step Up Hunt for Terrorists, Crime Rings”, *Toronto Star*, November 21, 2003, p. 46.

meeting in Ottawa, both leaders reaffirmed their commitment to border cooperation and praised the agencies involved in the work thus far completed. In particular, the actions of CUSP involved three guiding principles of border management: First, streamline, harmonise and collaborate on border policies and management. Second, expand cooperation to increase efficiencies in customs, immigration, law enforcement and environmental protection at and beyond the border. Third, collaborate on threats outside Canada and the US.¹⁷³

In order to achieve these objectives, Chrétien and Clinton respectively assigned the Foreign Minister and Secretary of State to “*consult with government agencies on progress in cross-border cooperation; promote high-level dialogue among federal, provincial/territorial/state and local authorities, border communities and stakeholders toward a common vision for border management; and identify emerging issues and long-term trends in border collaboration.*”¹⁷⁴ The structure used to implement these objectives was CUSP meetings between different governmental agencies. The first of these meetings was held in Niagara-on-the-Lake, Ontario and Buffalo, New York on April 11-12, 2000 followed by another meeting in Vancouver, British Columbia and Blaine, Washington on June 22-23, 2000.

These meetings quickly brought to the surface the pattern of the upcoming debate – a polarisation in terms of how the function of the border is viewed. On the one hand, some

¹⁷³ “Building a Border for the 21st Century”, CUSP Forum Report, December 2000 available at <http://www.dfait-maeci.gc.ca/can-am/main/border/cusp2000-en.asp>, accessed on July 10, 2005.

¹⁷⁴ Canadian Embassy, Washington D.C., “Building a Border for the 21st Century”, p. 7, available at <http://www.canadianembassy.org/border/cuspreport-en.a>, accessed on March 16, 2005.

felt that due to the nature of the relationship between both countries, there should be an open border allowing the free and unencumbered passage of people and goods. On the other hand, claiming sovereignty issues and the presence of different laws in both countries, others called for a “perimeter” approach where the focus would be on jointly preventing the entrance of criminals and illegal shipments from third countries. In this respect, a number of concepts emerged - the use of joint facilities at certain border crossings, a risk management approach to inspection procedures, a concept of self-policing for large shippers and increased coordination of processes with local leaders.

The Emergence of More Significant Threats

Arrests at the Canadian border in Washington state and Vermont rekindled the debate over the full implementation of Section 110. Proponents of the law were now equipped with new ammunition to push for a reconsideration of its application. The highly publicised arrest in December 1999 of Ahmed Ressay provided the required visibility for the proponents of Section 110 to reactivate the public debate on the issue of tightening border controls. Ressay, an Algerian who had been living in Montreal, was arrested in Washington and charged with attempting to bring bomb-making material into the country with the intent of attacking Los Angeles International Airport. Representative Lamar Smith, a Texas Republican and strongest defender of the law, used the arrest to claim that *“this case is the best wake up call to either Canada or the US is going to get about our*

porous shared border."¹⁷⁵ Smith's comment appeared to capture a heightened anxiety related to the threat of further terrorism.

The arrests also sparked a US congressional immigration subcommittee to hear testimony about Canada's handling of terrorists along the border. Christopher Sands, an expert on Canada at the Centre for Strategic and International Studies called on both countries to appoint representatives to a binational commission to rapidly develop recommendations on improving border security.¹⁷⁶ However, the suggestions for greater joint action to address the issue of border security were shadowed by the resurfacing of domestic political wrangling. Howard Dean, the Democratic Governor of Vermont, a state that borders Canada, stated that the rhetoric against Canada, in his view, was merely intended for election-year consumption.¹⁷⁷ The discourse of border management was yet again being influenced by the partisan positions of American politicians. In some cases the attacks were colourful. Lamar Smith, chairman of the subcommittee, loudly analogised his perception of Canada's lax immigration laws, liberal refugee system and weak funding controls as resulting in a "Club Med for terrorists".¹⁷⁸

However, the sheer prospective magnitude of the impact of a law such as Section 110 on the economic relationship between both countries eventually led members of Smith's own party to apply pressure to find a more pragmatic solution. In particular, Michigan

¹⁷⁵ Frederic J. Frommer, "Border arrests bolster controversial US law: New rule would require tracking all foreigners beginning 2001", *Ottawa Citizen*, December 26, 1999, p. A14.

¹⁷⁶ "US committee targets Canada's border security", *Star - Phoenix* [Saskatoon, Saskatchewan], January 25, 2000, p. D4.

¹⁷⁷ Mike Blanchfield, "Border skirmish: US congressional subcommittee to charge Canada is terrorist haven", *The Gazette*, Montreal, Quebec, January 25, 2000, p. A1.

¹⁷⁸ Hilary MacKenzie, "Canada upset by proposed controls", *Calgary Herald*, January 27, 2000, p. A10.

Senator Spencer Abraham was the target of unrelenting pressure from the trucking industry lobby as the Windsor-Detroit border crossing is one of the busiest on the US's northern border.¹⁷⁹

The long and tumultuous saga of Section 110 ultimately ended with the elimination of the most controversial aspects of the legislation. In its place, less stringent measures were introduced when President Clinton signed into law on June 15, 2000 the *Immigration and Naturalization Service Data Management Act* limiting the information requested at the border to name, country of origin and date of birth. The information would be used to provide information to authorities with respect to the movements of known criminals across the borders.¹⁸⁰

Similar to other stages in the evolution of border management policies between Canada and the US, the threats associated with the unilateral American implementation of a border control process seem to be followed by the acceptance of a joint mechanism. In November 2000, the first test of the NEXUS program was put in place at the Blue Water Bridge crossing between Sarnia, Ontario and Port Huron, Michigan. Under this arrangement, US Customs, the INS, Canadian Immigration and Citizenship (CIC) and Canada Customs would develop a common data form, allowing travelers and shippers in both countries to file the same personal information form to apply for designation as a low-risk traveler. From a practical standpoint, the NEXUS program was a 180 degree shift from the initial philosophy inherent under Section 110.

¹⁷⁹ Peter Morton, "US Congress in talks on border delays", *The National Post*, Don Mills, Ontario, March 23, 2000, p. C1.

¹⁸⁰ "'Big Brother' to greet visitors at US border", *The Ottawa Citizen*, May 26, 2000, p. A10.

On the political stage, the type trial of NEXUS coincided with the concurrent elections of George W. Bush, Vincente Fox and Jean Chrétien (for a third term) creating the unique situation where the entire political leadership in North America was occupied by newly-elected governments. It was difficult not to view this situation with some enthusiasm. It was viewed by many as a new starting point for the trilateral relationship under the aegis of continued, and maybe even deeper, border management cooperation. However, dramatic events would shatter the perceived potential benefit of more open borders in support of growing trade liberalisation. The promise and enthusiasm associated with an environment of new political leadership across the continent would not succeed in stemming the reaction of the US to the attack of their homeland.¹⁸¹

September 11 and the Disappearance of the Status Quo

The terrorist attacks of September 11 significantly curtailed the efforts aimed at easing border controls in the name of free trade and greater liberalisation of markets. The destruction left by the attacks created a prevailing anxiety within the US and a deeply-rooted concern that the borders constituted a weak point in its national security and a glaring deficiency that could be further exploited by terrorists. Prior to the attacks, it was widely accepted that the economic demands of globalisation necessitated more effective ways to move goods and people across the border. However, this willingness to accept and endeavour for increased openness at the border in the name of increased trade efficiency was quickly sidelined. The vulnerabilities of the US, and to a certain extent the entire North American continent, were dramatically brought to light on that fateful day.

¹⁸¹ The program test of NEXUS was among the first casualty of the attacks of September 11.

The methods and approaches used to secure the border became an integral part of that fear.

One of the main consequences of the attacks was the development in the US of a fortress mentality. For instance, in the immediate aftermath, the US practically closed its northern and southern borders. The negative impact on cross-border business was felt immediately, leading some analysts to state that the dramatic actions had a similar effect as “placing a trade embargo on itself.”¹⁸² Once the scope of the devastation and the susceptibility of the country to renewed attacks began to set in to the American psyche, a new set of values and priorities materialised along with the emergence of a new and dominant discourse. Terms such as “homeland security” and the “war on terror” would henceforth dominate the lexicon of American domestic and foreign policy. Moreover, previous efforts aimed at opening borders on a North American scale in order to facilitate trade were quickly superseded by security related concerns. The key justification for some of the policy actions that followed fell under the newly prevailing philosophy of “security trumping trade”.

There have always been concerns, within both the US population and among its political leadership, with the effectiveness of border controls. The debate over Section 110 is a case in point. However, these concerns were for the most part focused on very specific challenges such as illegal immigration and drugs from Mexico or lax immigration laws allowing asylum seekers to enter the country from Canada. In very dramatic fashion, the

¹⁸² The analogy is that of Stephen E. Flynn, “America the Vulnerable” *Foreign Affairs* 81, 1 (January/February 2002), pp. 60-74.

events of September 11 resulted in the intensification of these worries and exposed more pressing vulnerabilities. Nevertheless, Canada – US border policies remained focused on maintaining the viability of the economic relationship.

The Canadian – US border, the longest undefended border in the world, was now attracting unprecedented attention from US policymakers. Testifying before the Senate Judiciary Committee shortly after the attacks, US Attorney General John Ashcroft pointed out that there were 9,000 people supervising the Mexican border while only 500 were assigned to controlling the Canadian border.¹⁸³ It was becoming clearly apparent that the attacks caused a northward shifting of concern. On a practical level, this led to a re-evaluation of the resources assigned to each border.

Legislative proposals and recommendations developed in relation to the implementation of NAFTA and that had progressed slowly through the respective legislative machinery of both countries were suddenly propelled to the forefront of domestic and international political agendas with a greater sense of urgency and purpose. Various border initiatives, until then only timidly supported by the respective heads of state, were now publicly discussed at the highest levels of government and incorporated into sweeping policy changes.

The main policy initiative, hastily passed on October 24, a mere six weeks following the attacks, was a measure entitled *The Uniting and Strengthening America by Providing*

¹⁸³ Bev Wake, “US border clampdown risks devastating economic effect: Slowing the flow of goods threatens Canada’s \$90 billion trade surplus”, *The Ottawa Citizen*, September 27, 2001, p. A6.

Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, more commonly known as the *USA Patriot Act*. Essentially, the Act advanced the requirement set forth by the *Illegal Immigration Reform and Immigration Responsibility Act* and the *Immigration and Naturalization Service Data Management Act of 2000* to implement an integrated entry and exit data system. Additionally, among the measures included in the Act were increased funding to strengthen border security, specifically, the authority to triple the number of border patrol agents and immigration inspectors at the northern border as well as an allocation of US\$50 million to improve the technology required for monitoring the northern border. Other measures such as the expansion of who should be considered a terrorist as well as dramatic personal powers given to the Attorney General in making such determinations elevated the perceived invasiveness of the Act and created the beginning of a new debate as to the need to balance security concerns with the preservation of individual rights.¹⁸⁴

A similar sense of policy expediency also emerged in Canada. Although Canada and the US would eventually agree on a joint framework to improve the management of border controls, Canada had to appear more stringent on potential rogue units finding refuge in the country. In October of 2001, the Canadian Government introduced a bill calling for the most forceful antiterrorism legislation of the country's history calling for preventative arrests and broad electronic surveillance.¹⁸⁵ John Manley, Canada's Foreign Affairs Minister positioned the new measures as legislation that "*represents the first step toward*

¹⁸⁴ Matthew Purdy, "Bush's New Rules to Fight Terror Transform the Legal Landscape", *New York Times*, November 25, 2001, p. 1.

¹⁸⁵ Barbara Crossette, "Canada Pushes Broad Antiterror Measure, Alarming Some Who Fear Erosion of Rights", *New York Times*, October 18, 2001, p. B4.

dealing with a new sense of danger across North America.”¹⁸⁶ Such a positioning of the new policies would be echoed by other Canadian governmental officials in an effort to dispel the perception that the measures were mere replicates of the US law. The Canadian *Anti-Terrorism Act* eventually passed on December 18, 2001.

The legislative measures implemented in the US had a dramatic and invasive effect on some of Canada’s own laws. In fact, to some observers, the *Patriot Act* “knows no borders”.¹⁸⁷ The original intent of the measure provided greater ease for law enforcement and intelligence entities to access information within the US. However, the measure had direct consequences on the privacy of information within Canada. For example, if a Canadian firm entered into an outsourcing agreement calling for personal information to be sent to the US, the information would be subject to the *Patriot Act* and could then be provided to the Federal Bureau of Investigation (FBI) on request.¹⁸⁸

US access to private Canadian information quickly became the new warhorse for civil liberties groups and labour unions. As a result of the perceived invasiveness of the law, the Canadian government was forced to tighten the wording of future federal contracts in an effort to counter US powers granted under the sweeping measures.¹⁸⁹

¹⁸⁶ Ibid., p. B4.

¹⁸⁷ Dirk Meissner, “Patriot Act knows no borders”, *Telegram*, [St-John’s, Newfoundland], October 30, 2004, p. A7.

¹⁸⁸ Ibid., p. A7.

¹⁸⁹ Jim Bronskill, “USA Patriot Act poses privacy threat”, *The Gazette*, [Montreal, Quebec], January 31, 2005, p. A9.

An Agreement to Work Smarter

The ongoing dilemma of developing a firm border control policy became the necessity to balance an effective guard against terrorists and other criminal actors with the free flow of trade. With a level of trade amounting to US\$1.3 billion a day, the motivation to find a workable solution to breach the gap between both priorities was high.¹⁹⁰

On December 12, 2001, John Manley and Tom Ridge the US Director of Homeland Security signed a 30-point action plan eventually known as the *Smart Border Agreement*. The action plan included intelligence sharing, visa coordination and the sharing of passenger information on flights between the two countries.¹⁹¹ In addition, the plan outlined some politically sensitive areas that would be jointly developed such as a refugee policy and whether US customs inspectors can be deployed on Canadian soil.¹⁹² The *Smart Border Agreement* formed the new baseline for managing the border.

From that point on, the bilateral discussions on border related issues did not create any new policy directions. The extensiveness of the framework outlined in the *Smart Border Agreement* captured many of the initiatives that had, at one time or another, been discussed at different levels within both governments. The evidence of subsequent activities between both countries points to the continuation of the different elements of the action plan. The strategic nature of the management of the border was essentially the

¹⁹⁰ Facts and figures pertaining to the secure flow of goods is available at http://www.dfait-maeci.gc.ca/can-am/main/border/customs_coop-en.asp, accessed on September 28, 2005.

¹⁹¹ Alison Mitchell, "Ridge and Canadian Sign Antiterror "Action Plan"", *New York Times*, December 13, 2001, p. B6.

¹⁹² *Ibid.*, p. B6

development of processes related to the daily management and control of the border. The main policy direction did not deviate from the Smart Border action plan.

Smart Borders: The Emergence of a New Status Quo

The border management policies achieved through this agreement marked the highest degree of integration thus far. However, from a comparison standpoint, the arrangement was still very distant from what can be observed in the Schengen Agreement. Subsequent legislation and political actions would be limited to adjustments of previously passed bills or acts and reorganisations of the governmental structure to better adapt to these rapidly shifting priorities. No strategic changes can be observed on the policy horizon.

For example, on January 23, 2002, the American government signed into law the *Enhanced Border Security and Visa Entry Reform Act of 2002* further advancing requirements set forth in the *Illegal Immigration Reform and Immigration Responsibility Act*. Primarily, the Act specified that the Attorney General is responsible for implementing an integrated entry and exit data system. However, the measure also empowered the Attorney General to fund and implement a standardised technology as well as ensure the interoperability of the system with other databases with respect to making alien admissibility determination. The Act also called for increases in the level of staffing at the INS and the requirement for all airlines to provide, before arriving in or departing from the US, electronic passenger manifests. The Canadian approach differed little from the American precedent. Later that same year, on October 31, 2002, the

Canadian government proceeded with its second wide-ranging omnibus bill since the attacks of September 11. One of the most controversial aspects of the *Public Safety Act* was the ability for Canada to collect personal information on all Canadian airline passengers and share it with US customs. This quickly raised the issue of infringements on Canadian sovereignty among the most ardent critics of the Act.

The US was the first to partly redesign the structure of government to meet the new threats posed by terrorism. “*In establishing a new Department of Homeland Security, the Act for the first time creates a Federal department whose primary mission will be to help prevent, protect against, and respond to acts of terrorism on our soil.*”¹⁹³ With the signing of the *Homeland Security Act* on November 19, 2002, the Bush administration created a mega department within the Federal government. The new department encompassed the INS, the US Customs Service, the US Coast Guard, the Animal and Plant Health Inspection Service and the Transportation Security Agency under one Secretary reporting directly to the Oval Office. The powers of this new office were expansive, including provisions for unrestricted surveillance and monitoring of private information when terrorist activity is suspected.

A little over a year later, Canada proceeded with its own governmental reorganisation. On December 12, 2003, Paul Martin assumed the role of Prime Minister following the retirement of Jean Chrétien. He immediately proceeded with a number of organisational and structural changes within the government. In particular, one of the changes included

¹⁹³ Public Papers of the President, “Statement on Signing the Homeland Security Act of 2002”, November 25, 2002.

the creation of a new Minister of Public Safety and Emergency Preparedness.¹⁹⁴ In particular, the new ministerial position would include the coordination of all activities related to the Royal Canadian Mounted Police, the Canadian Security Intelligence Service, the Canadian Firearms Centre, the Correctional Service of Canada, the National Parole Board and, the Canadian Border Services Agency.¹⁹⁵ Additionally, in an effort to break with the acrimonious nature of the relationship between Martin's predecessor and President Bush, the new Prime Minister also announced the creation of a new Parliamentary Secretary for Canada – US relations specifically assigned to “*developing an integrated approach to Canada's multi-dimensional relationship with the United States.*”¹⁹⁶

While more limited in the scope to the US's reorganisation leading to the creation of the Department of Homeland Security, the change in governmental structure implemented by Martin in the early stages of his new government indicates two key policy directions. First, the unambiguous emphasis on security issues and border management concerns was clearly aimed at quelling American criticism. Second, the new structure was also aimed at mending the working relationship with the US. Under Jean Chrétien, the relationship was characterised by his personal contempt of members of the US administration. Martin needed to dramatically alter the dynamic of the relationship as policy challenges such as

¹⁹⁴ Prime Minister of Canada, “A New Approach: Prime Minister Martin announces new government will be guided by a new approach”, Office of the Prime Minister's website available at <http://pm.gc.ca/eng/news.asp?id=3> accessed on September 28, 2005.

¹⁹⁵ Statutes of Canada 2005, Chapter 10, “An Act to establish the Department of Public Safety and Emergency Preparedness and to amend or repeal certain Acts”, Section 5, March 23, 2005.

¹⁹⁶ Prime Minister of Canada, “New Structures in the Prime Minister's Office and Privy Council Office”, Office of the Prime Minister's website available at http://pm.gc.ca/eng/chgs_to_gov_1.asp accessed on September 28, 2005.

the access of Canadian beef to the US market and the never-ending softwood lumber dispute would continue to impact the relationship.

Re-energising the Trilateral Relationship

On March 23, 2005, Prime Minister Martin, President Bush and President Fox signed the *Security and Prosperity Partnership of North America*, marking the first tangible effort since NAFTA to advance a common agenda for Canada, the US and Mexico. As the name suggests, the agreement has dual objectives of advancing common security issues and pursuing continued economic cooperation in the specific areas of increased productivity initiatives, sectoral collaboration (e.g. in energy and transportation) as well as “enhancing the stewardship of the environment”. With respect to border management, the agreement revisits the familiar objective of reducing the costs of trade through the efficient movement of goods and people.¹⁹⁷ It also signals a different approach to managing borders in North America, one that views security issues through the prism of a continental framework. The agreement was quickly praised by the business community, in particular the Canadian Council of Chief Executives. Thomas D’Aquino, the Chief Executive and President of the CCCE, supported the initiative calling it a “quantum leap forward for the continent”¹⁹⁸

¹⁹⁷ Canada, Office of the Prime Minister, “Security and Prosperity Partnership of North America Established”, available at <http://pm.gc.ca/eng/news.asp?id=443> , March 23, 2005, accessed on March 23, 2005.

¹⁹⁸ Canadian Council of Chief Executives, “Trilateral Security and Prosperity Will Boost Jobs and Investment, Say Canada’s CEOs”, March 23, 2005, available at http://www.ceocouncil.ca/en/view/?document_id=402&type_id=1 , accessed on March 24, 2005.

Analysis and Discussion of Theoretical Application

The timeline of political events described above, from the implementation of NAFTA to the *Security and Prosperity Partnership of North America*, sets the stage for the second part of the case analysis. The focus now turns to the application of the theoretical frameworks to the narrative of political events previously outlined.

A close review of the timeline of events offers one striking observation. There is no apparent evidence of a singular process that can successfully explain the different phases of the evolution of border management. Rather, international conditions, US domestic political motivations, as well as coordinated efforts by interest groups on both sides of the border appear to be at the origin of the various changes in policy directions observed. The major shifts in policy direction are linked to economic and security threats. The end result is an evolutionary process of border management that is characterised by political hesitation. The level of integration is limited to the adoption of policies, rules and processes related to the daily operation of the border.

With the exception of the economic imperatives that are present at the beginning and end of the study period, the international environment appears to be somewhat less significant. In fact, even the events of September 11 do not succeed in convincing Canada and the US of the need to go beyond the current level of procedural cooperation in an effort to prevent the reoccurrence of such devastating attacks on North American soil.

Rather, considerations linked to ensuring one's own specific national interests take on a more significant role.

The study period used in this case is indeed “bookended” by two significant economic factors. One of the basic rationales for the establishment of NAFTA was the competitive economic reality emerging in other parts of the world. The newly formalised EU, as well as the emerging Asian markets, was portrayed as significant economic threats. Therefore, the most effective counter-mechanism was to create a larger trading bloc in order to safeguard the competitiveness of North American markets.

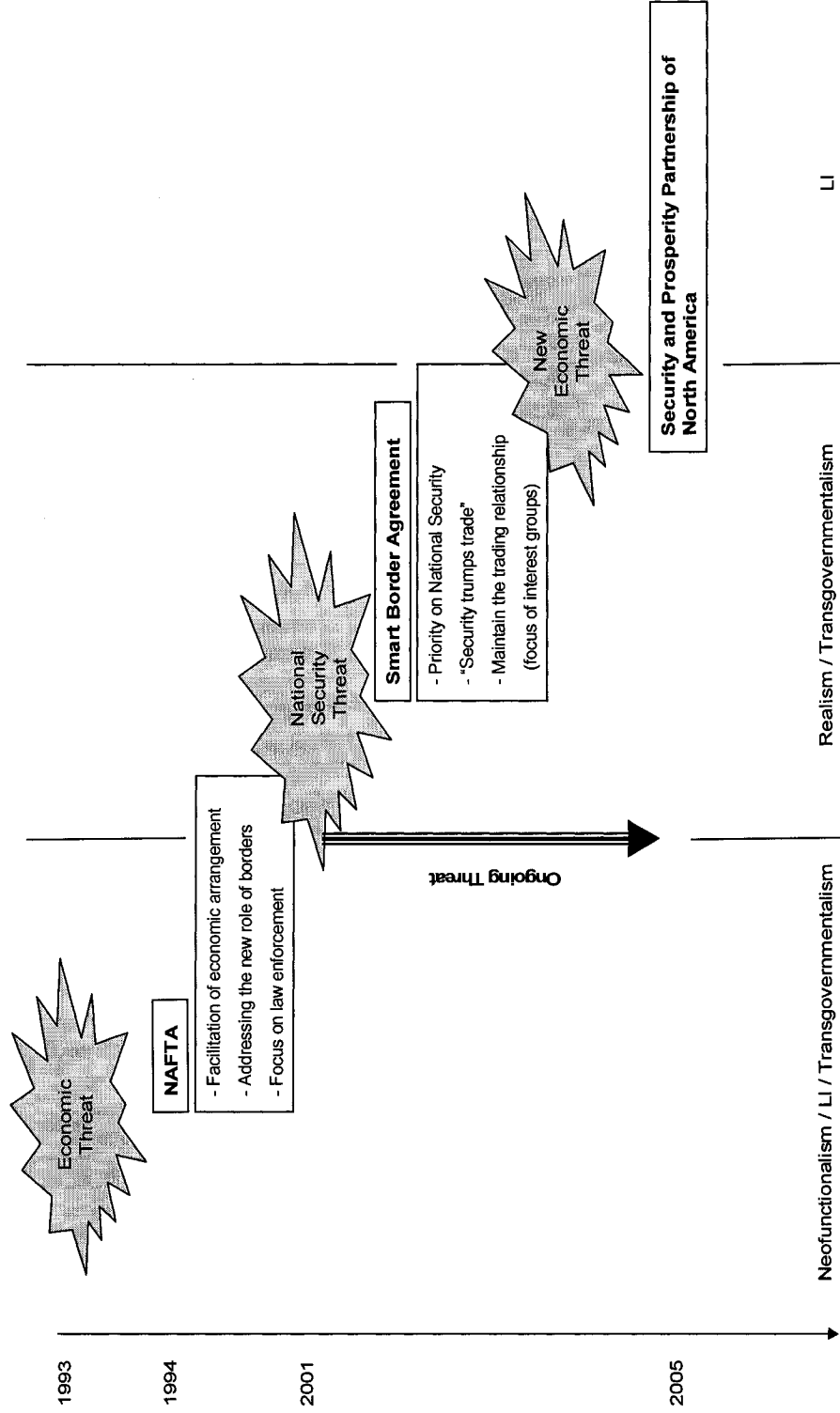
In 2005, the conditions in existence are characterised by a new economic threat. The rapidly growing economies of China and India are already having an impact on North American businesses. Interestingly, the reactions of the governments of Canada, the US and Mexico are somewhat similar and have materialised in the form of a renewed commitment to a continental agenda. However, there is one main difference in comparison to the pre-NAFTA era. There is now a much more significant and ongoing security component that influences the prospects of deeper integration. Nevertheless, there is still a need to prepare for economic competition.

The threats of global terrorism and cross border crime require continued vigilance on the part of policy-makers. In order to facilitate greater ease of trade among the countries of North America, changes to border control processes cannot be done at the expense of

national security. In this regard, governments are left with the difficult task of balancing trade and security requirements.

The emphasis on security issues was clearly amplified following September 11. The reaction has been swift and wide-ranging, especially in the US. It has forcefully led the way with respect to the implementation of policies related to border management, with Canada merely replicating the American approach. Appendix B is a process map outlining the timeline of political events subdivided along the different theoretical approaches analysed in this thesis. Figure 2 is another representation of the evolution of the issue-area over the study period. It suggests three different phases, respectively characterised by a particular threat, and identifies the theoretical approaches that help explain some of the specific political events that occurred within the phase. Appendix B and Figure 2 are the roadmaps for the remainder of this part of the case analysis.

Figure 2 – Process Map – Threats



Neofunctionalism

Under neofunctionalism, the level of integration of border management policies is related to the extent of “spillover” that exists over time. There are four key measurements that are explored under this theoretical framework. They include linkages that could potentially exist between interest groups who possess cross border interests and who demand changes or accommodations to the border, expressions of support for supranational arrangements by political and economic elites, spillover to other areas associated with border management and finally, the presence of a supranational entity tasked with managing the border.

A close analysis of the political events related to the evolution of border management policies does not offer any compelling evidence pointing to a shift in loyalty. There does not appear to be, at least at this stage, a willingness among political leaders or among the respective populations to create a new political community. There is no indication of a change in belief system that would result in a voluntary agreement to have border issues dealt with through a supranational entity. In fact, the contrary is occurring in the US. The prevailing discourse associated with the philosophy of homeland security is difficult to avoid. The extent of the level of cooperation appears, for the moment, to be limited to the continuation of focused cooperation at the working level of border management, namely inspections, facilities and processes.

However, the absence of the main criteria of a neofunctionalist interpretation does not in itself falsify its applicability to the analysis of Canada – US border management. In fact, policies such as the *Customs Modernization Act* passed in the US in 1993 could be interpreted as a facilitator of the subsequent implementation of NAFTA. In this respect, changes to border management policies could, in turn, be interpreted as a spillover effect of a deepening economic relationship. Similarly, following the *Accord on Our Shared Border*, the signing of the *Open Skies Agreement* could also be interpreted as a spillover effect. If the border is to become more open in order to facilitate greater trade, then the easing of the air transportation market appears to be a logical next step. In this regard, both these events could be seen as the seeds of a process predicted by a neofunctionalist interpretation.

The other key element of a neofunctionalist view is the presence of cross-border interest groups. In fact, there are few dedicated transborder organisations that are advocating changes to the way the border is managed. For the most part, the advocacy groups that do exist promote changes in border management that are, almost exclusively, related to facilitating trade. For instance, the Canadian/American Border Trade Alliance enunciates its main objective as follows:

“To collaborate with and integrate interests of Canada and US organisations in a cooperative effort to resolve border-wide issues, problems, and needs, through interaction on a continuing basis with federal, state, provincial, and local government officials relative to border trade, transportation, border crossing resources, practices and policies.”¹⁹⁹

¹⁹⁹ The Canadian/American website is available at <http://www.thebta.org> and was accessed on October 5, 2005.

While there are other interest groups focused on border issues such as the Border Trade Alliance, US Border Control and The Coalition for Secure and Trade-Efficient Borders, most of these organisations are either concerned with a particular local geographical area of the border or specific demands related to easing the burdens on the free flow of trade. There are also examples of political and economic elites that seek to influence border policies in a coordinated fashion. In particular, the Council on Foreign Relations along with the Canadian Council of Chief Executives (CCCE) and the Consejo Mexicano de Asuntos Internacionales advanced some of the most highly integrative proposals with respect to the border to date. Contrary to the proposals of most interest groups, the measures proposed by this coalition could aptly be described as a strategic framework, including items such as a common security perimeter, the development of a North American border pass, the expansion of border infrastructure and the harmonisation of a number of immigration issues such as visa and asylum regulations. These proposals emerged in the aftermath of the *Security and Prosperity Partnership of North America*. However, from a neofunctionalist perspective, these are merely indicative of a potential strategic direction for border management on the continent. The development of tangible policies emerging from such a political event is still a distant possibility. Whether this process materialises into a formal agreement to create a supranational entity to managing borders or a voluntary shift in loyalty remains to be seen.

It is quite possible that, in the future, some of the events witnessed thus far will be interpreted as the beginning of a long process that eventually led to the creation of a more fully integrated relationship beyond trade, inclusive of a joint strategic approach and

management of the border. However, for the moment, the evidence available only allows one to consider neofunctionalism as being indeterminate with respect to the analysis of Canada – US border management. In short, it is still too early to tell.

Liberal Intergovernmentalism

A liberal intergovernmentalist interpretation of the integration of border management policies relies on the costs associated with the failure to achieve a negotiated agreement. Particularly, does an agreement successfully eliminate the presence of negative externalities, thus inciting the respective parties to enter into an integrated agreement with respect to its borders? Under this theoretical framework, the establishment of border management policies is a two-step process. The first level is characterised by underlying societal factors in the form of pressure from domestic actors. The second level is defined by the presence of underlying political factors represented by the intensity of national preferences, the existence of alternative coalitions as well as evidence of issue linkages and compromises.

The functioning of such a process is witnessed through the position of influential interest groups, the bargaining position of the states involved and, ultimately, the final policy outcomes. The specific measurements considered under this theory are threefold, including the interests of the different countries, the relative influence of the interest groups determining the national interest, and the bargaining leverage of the states involved.

It is hypothesised that the greater the convergence of pro-integration preferences at the domestic level the greater the level of integration of border management policies among both countries. In the event that there is no such convergence, the level of integration of border management policies reflects the preferences of the country with the lower relative cost of non agreement. When a country has a low cost of non agreement it is more willing to leave the bargaining table if the prospects of a particular outcome does not suit its interests. In this respect, such a country has greater bargaining leverage.

In the case of Canada – US border management, the negative externality, the reason why both countries need to negotiate, is related to the maintenance of the economic and trade relationship. There is a very pronounced asymmetry in the economic dependence between both countries. Canada is by far more reliant on the US with respect to having access to a significant market for its manufactured goods. In this respect, its cost of non agreement is significant thus resulting in little negotiating leverage with respect to the US. However, there are some economic requirements that the US cannot neglect. Canada is a very important supplier of electricity and natural gas and, has also become the most important supplier of crude oil, surpassing Saudi Arabia. From that perspective, while the US might currently hold an upper hand over Canada in terms of negotiating leverage, there are signs that the asymmetry could lessen. Should the significance of accessing such resources were to become more important for the US (maybe even with an impact that is beyond mere trade issues) this could potentially raise its own cost of non agreement and reduce some of its bargaining leverage to the benefit of Canada. Despite the fact that

there are mutual interests that link both countries, the current bargaining leverage tips in the favour of the US.

The nature of the economic links between both countries is at the root of the involvement of different interest groups. Building upon Andrew Moravcsik's view that the main driving factor for governments is the desire to keep the reigns of power, there is little surprise that governments will be attentive to the formation of national preferences that reflect economic considerations. In Canada, organisations such as the Canadian Chamber of Commerce, the Canadian Council of Chief Executive Officers, the Canadian Manufacturers and Exporters, the Canadian Trucking Alliance as well as the Coalition for Secure and Trade Efficient Borders, have been at the forefront of ensuring that the economic nature of the relationship between Canada and the US is not overly impeded by intrusive and complicated border policies. These groups want to ensure the elimination of any cumbersome policies that slow down the flow of transborder trade. These entities are very well organised and represent a large component of the Canadian business elite and include the most influential lobbyists in the country.

In the US, the nature of the political system results in a greater fragmentation of the various interests with a stake in border management. While there are some organisations that offer a joint position (with Canada) on the issue of transborder trade such as the US Chamber of Commerce and the US Border Control, many of the congressional lobbying efforts that occur in the country are driven by regionalised interests represented by either private companies or industries from particular regions. Consequently, there is some

evidence that points to the fact that the positioning of governments with respect to this issue area is done for domestic consumption. For instance, the US domestic debate with respect to borders is polarised between northern and southern states. In addition, the situation is rendered more complicated by the ongoing presence of a security threat that is constantly on the mind of the population of both countries. Governments are therefore faced with the complex and somewhat antagonistic task of balancing interest group demands on trade with the popular concerns over security. One of the consequences of this fragmentary process is the creation of an environment that is not conducive to the development or acceptance of a supranational entity that would be responsible for the management of the joint border.

Nevertheless, liberal intergovernmentalism offers some valuable insight as it pertains to the development of border management policies that preserve the economic relationship between both countries. Following NAFTA, various interest groups quickly became engaged in the process of determining national preferences. As a result of the greater convergence of pro-integration views of borders in an effort to facilitate trade, the governments on both sides of the border were the target of demands for the continued facilitation of the newly formalised trade arrangement. The call for closer and deeper cooperation in the name of trade is reminiscent of the origins of the EU. Liberal intergovernmentalism therefore contributes to the explanation of how border policies developed in the period following NAFTA.

However, liberal intergovernmentalism offers less insight in the period immediately following September 11. While powerful interest groups are still active in the promotion of their issues, the pervasiveness of security concerns is now taking up greater space on the political agenda. The facilitation of trade competes with the security concerns of citizens for the attention of policy-makers. In dealing with such a significant *political issue* during intergovernmental bargaining, the country with the greatest bargaining leverage will succeed in having border management policies reflect its own interest. While there is indeed evidence of this occurring, it is happening although there is *still* evidence of convergence for greater border integration among business-related interest groups on both sides of the border. The policies implemented in the period following September 11 are clearly aimed at securing the country. However, in some cases, such policies are proving to be more cumbersome for transborder businesses. Therefore, in the face of a security-related threat, the hypothesis posed by liberal intergovernmentalism does not hold as the predicted outcome is occurring in the *presence* of pro-integration convergence preferences at the domestic level.

In the face of the new economic threats of China and India (a reality that is increasingly visible at the later stage of the study period), liberal intergovernmentalism once again provides valuable insight. The emergence of a powerful economic threat to the North American trade environment fuels the efforts of the powerful business lobby and their collective call for greater integration. The *Security and Prosperity Partnership of North America* is a renewed push for a continental framework of cooperation that is more integrated and wider in scope than NAFTA. It is widely reported that this attempt at

reviving a continental agenda is essentially driven by the business community who have cleverly used the security concerns to advance their position (e.g. security perimeter around North America). It would therefore appear that in the face of an economic threat, liberal intergovernmentalism provides an accurate view of the process and, in this case, predicts the demands for greater integration (as this is what the more powerful interest groups are demanding).

Transgovernmentalism

Transgovernmentalism seeks to understand how intergovernmental networks operate in the management and establishment of border related policies. Such networks can be characterized by different degrees of cooperation. At its most integrated level, intergovernmental networks can take the form of a harmonisation network where policies and procedures are closely integrated. In its simplest form, information sharing networks merely allow for a basic exchange of information. The level of integration of border management policies is therefore related to the type of network that is prevalent in the transborder relationship. The determination of what type of network exists between both countries is measured by the presence of subgovernmental organisations specifically focused on border issues.

The application of this theoretical framework is especially appropriate in the context of the changing role of the border. Modern threats to national security no longer take on the once traditional form of attacks on a nation's sovereignty from other countries (through

military means). In its place, transborder crimes constitute a menace that government infrastructures cannot neutralise. As made painfully evident on September 11, criminal entities can now organise in global networks in order to carry out their devastating objectives. Moreover, other forms of crime, such as smuggling, can use the legitimate networks of international trade in order to camouflage illegal activities. To combat such ill-intentioned activities, governments need to adapt its own structures and create its own networks of activity.

In the case of border management, the vulnerabilities associated with the effective monitoring and policing of such a large boundary have required a level of focused cooperation aimed specifically at law enforcement. The scope of activity is also specialised. There is no evidence of a transgovernmental network responsible for the development and management of strategic border related issues. Rather, what is being observed is the presence of a network of subgovernmental organisations responsible for a particular aspect of border management, specifically law enforcement. This has taken the form of IBETs that span the entire length of the Canada – US border. These teams are not responsible for setting high level policy proposals. Rather, they are networks of task-driven entities responsible for the daily enforcement of laws pertaining to transborder crime.

The bi-national Cross-Border Crime Forum is another network that emphasises the implementation of task-oriented policies of which IBETs are the centerpiece. Specifically, IBETs have adapted to regional border-related law enforcement concerns.

For instance, the IBET operating in the Cascadia region (between British Columbia and Washington State) has very different preoccupations and priorities than the IBET responsible for issues at the New Brunswick – Maine border. From this standpoint, the level of integration of border management policies is faced with an inherent limitation as the very task of law enforcement must adapt to regional concerns, topography of the region as well as the nature and volume of legitimate transborder activity at particular border crossings. While the concept of IBETs can be applied in a wide-ranging fashion, its practical applicability is very specific and local.

In this sense, the contribution of transgovernmentalism is limited to the *implementation* of policies. As suggested above, governments are ill-equipped to handle modern security challenges and must therefore delegate some of these tasks to specialised networks. In the case of setting border management policies, transgovernmentalism does not apply.

Realism

A realist interpretation of the level of integration of border management policies suggests that the most powerful state will succeed in achieving its policy objectives. Indeed, power is the central element of analysis. Realists are essentially pessimistic as to the propensity for states to cooperate. In this regard, evidence of unilateral policy actions by the US and the perception of a mutual threat to the region are the essential ingredients of a realist vision of border management. However, caution is warranted when interpreting unilateral action as an expression of power. It is quite possible that when interest groups demand

unilateral action or when the leader of a government takes a very forceful position on a particular issue, such circumstances be misinterpreted for the exercise of raw power.

One potential way to prevent such a misinterpretation is to analyse the positions of the most powerful interest groups. Should these resemble the final policy outcome of a government, there is a greater probability that the decision-making process corresponds to a liberal intergovernmentalist interpretation. The absence of such evidence, while not an automatic endorsement of a realist view (as influence from interest groups could well have been done subtly through back channels), may be a strong signal pointing in the direction of an exercise of power on the part of the stronger nation. Moreover, evidence of an asymmetry of power is the main measurement of the applicability of this theory.

Following September 11, the US has become increasingly concerned with issues pertaining to national security. Consequently, the level of cooperation with respect to border management took on a very different direction. The US government adopted measures, often dramatic ones, to ensure its domestic security. Within these measures, border policies were clearly at the forefront of proposed changes to re-establish domestic confidence in the country's national security. Considering that the momentum, held by important business-related interest groups previous to September 11, was in the direction of more open borders, it is reasonable to believe that many of the policies enacted by the Bush administration were unilateral actions. These are governmental actions that are done within the context of the traditional nation-state responsibility of protecting its citizens.

The Canadian reaction to the US's implementation of *USA Patriot Act* is possibly the clearest illustration of go-it-alone power. As a result of the wide-ranging American legislation, Canada was required to adopt similar policies. It was feared that failure to comply with US priorities would lead to impeded access for Canadian goods to the US market. Canada's concerns and protests with respect to the part of the Act dealing with the issues of privacy of personal information did not dampen the US's drive. It implemented legislation allowing more intrusive government surveillance and increased access to any and all information it desired on individuals who were suspected of terrorist activity. Even domestically, the invasiveness of the law with respect to the privacy of information and the unencumbered ability of law enforcement agencies to conduct covert surveillance and preventative arrests was not unanimously supported by its own population.

Regarding the level of integration of border management policies, September 11 did not result in the immediate implementation of a fully integrated border. This suggests that the threat of terrorism is viewed differently in both countries with the possible reasoning from both sides of the border as follows: Canada is very dependent on access to the US market for its goods. These goods must then be transported across the border. The US has tightened border inspections therefore impeding the free flow of trade. The US is less dependent on the Canadian market for its goods but acquires much of its energy resources from its northern neighbour. It is also increasingly weary of the perceived lax immigration policies in existence in Canada and strongly believes that this could result in ill-intentioned individuals gaining access to the US. Such a clinical assessment of the

perceived threats could lead one to think that the most rational choice for both countries is to fully integrate its borders.

However, as realists believe that states possess inherent inhibitions to cooperate even in circumstances where they share common interests, it is of little surprise that even the drama of September 11 did not lead to deeper cooperation on border issues. Clearly, deeper integration is not happening. Something more significant is influencing the decisions of both respective governments. The evidence may well point to a scenario where security threats are viewed differently between the US and Canada, leading both countries to believe that it is in their best interest to cooperate on a different level when it comes to the management its joint border.

There is also another way to interpret the situation. There is little observable integration of border management policies because the US is simply not interested in pursuing it. Both “go-it-alone power” and “voices opportunity theory” suggest that the degree of integration is ultimately driven by the interests of the stronger country. If the US felt that its best interests were tied to the implementation of a security perimeter or the creation of a supranational entity to manage the border, it would simply force Canada (and in turn Mexico) to acquiesce. From that standpoint, in the face of a security-related threat, realism provides an accurate representation of the political dynamic related to border policies.

Conclusion

Border management has clearly become an issue-area that has graduated to the level of “high politics”. It is possible that, for this exact reason, the governments of Canada and the US have thus far refused to deepen its cooperation on border issues beyond that of task-oriented arrangements related to inspections processes and common facilities. Indeed, there has been no sustained attempt thus far to transform the border into a more significant strategic mechanism for continental relations as seen in the Schengen Agreement in Europe.

The evolutionary process related to the Canada – US border policy developments does not follow any precise theoretical framework. Rather, it is driven by threats and is best understood by breaking down the process into “stages”. The case analysed here illustrates that the main factors influencing the level of integration of border management are driven by particular conditions – international security threats, international economic threats and the interplay of powerful economic interest groups, both at the domestic level and those developed through transborder coalitions. The level of government involvement in establishing the direction of border policies peaks with the occurrence of significant events such as a terrorist attack or the emergence of a major trade competitor to the region. Following such events, interest groups from both countries take on a greater role in the policy process. As the evidence explored in this analysis suggests, the advocates of open and free trade have been more successful in convincing both governments of the

need to ensure that borders remain trade-friendly regardless of the threat level to national security.

So what is the process under which border management policies evolve? The position I have taken as a result of this analysis is that the issue-area progresses along a lifecycle defined by the degree of state involvement (as illustrated in Figure 1). The economic threat present prior to the implementation of NAFTA led to the direct involvement of the American, Canadian and Mexican governments. As time passed, interest groups became increasingly involved in order to maximise their own respective benefits created by a more liberated economic and trade environment. Consequently, border policies were adapted to the rigours of international trade. As the volume and intensity of transborder trade gained momentum, the role of the border was forced to change in response to the increasing infiltration of transborder crime into the legitimate stream of international business. As governments were ill-equipped to contain the nature of these threats, greater autonomy was given to transgovernmental networks to manage the intricacies of curtailing transborder crime. Government's role, one could argue, was declining with respect to setting policies related to day-to-day management of the border.

The recognition of new economic threats from the growing economies of China and India, and the recent expression of renewed political interest with trilateral issues (in the form of the *Security and Prosperity Partnership of North America*) signal the beginning of a new cycle. This new cycle could potentially lead to more strategic cooperation on border issues. Perhaps the forces at play during the creation of NAFTA will now emerge

in a response to this new economic threat with a “NAFTA-for-borders” arrangement. Unlike the situation with NAFTA, the current environment is characterised by an ever-present threat to security, especially in the form of terrorism. This situation creates a more complex situation for the respective governments to balance.

The nature of these findings begs the obvious question as to the applicability of the theoretical frameworks to the analysis this case. It is tempting to quickly dismiss the applicability of neofunctionalism as there is no evidence of the eventual emergence of a supranational entity to manage border issues. In fact, in terms of a comparison with the EU, the Canada – US relationship is at the embryonic stage with respect to the level of integration of border management issues. It is important to recall that the early stages of the EU experience were formalised through deep economic integration. It is quite possible that, in the case of North America, we are merely witnessing the early stages of a long process. In the case of transgovernmentalism, its contribution is inherently limited to the implementation of border management policies. It does not provide any insight into the influence of governmental networks in developing policies.

However, the evidence analysed here suggests that in the case of an economic threat, the process predicted by liberal intergovernmentalism *does* occur. Powerful interest groups succeed in placing their demands for greater integration on the political agendas of the different governments involved. Alternatively, in the case of a security-related threat, realism also applies but predicts a different result. Following September 11, the US proceeded with measures intended to protect its homeland and placed trade issues on the

proverbial back-burner. It did not desire (and still does not today) greater integration of its borders, preferring a level of cooperation limited to the technical issues of border controls. Should their desires and interests change, there is no doubt the final policy arrangement would reflect American interests.

There are very pronounced differences between the North American and European cases. However, there is one important similarity that gives greater credence to the analysis presented here - the simultaneous existence of security and economic threats to the region. What is now required of policy analysts and political scientists alike is an ability to pick the proper instrument from the vast theoretical toolbox that is available. The Canada – US case does have some peculiarities that require a customised interpretation of the factors at play. The findings of this analysis have shown that certain theoretical frameworks apply best in the context of a particular type of threat. In a scenario where both types exist, the analysis suggests that the threat considered dominant by the stronger player will drive the final policy outcome. For the moment, a continued focus on homeland security points to the necessity of a realist interpretation of Canada – US border management.

For Canadians, our destinies and daily lives are inherently linked to issues involving the border. We are bound by the geography of the continent as 80% of the entire Canadian population live within 150 miles of the border. In the US, notwithstanding the fact that 37 states in the US count Canada as their top export market, the reality of border issues for most of the American population is not a very visible one.

The 2000 edition of *Canada Among Nations* was entitled “Vanishing Borders”, an appropriate portrayal of the situation at the time.²⁰⁰ However, in the vortex of September 11, this title is far from reflecting the characteristics of the current situation. A renewed focus on border-related issues has emerged amidst the background of the US’s “addiction to security”.²⁰¹ Ultimately, American preferences are what will drive the evolution of this issue-area in the future. It is therefore expected that for the foreseeable future both Canadians and Americans will still be required to provide their customs declarations to border agents.

²⁰⁰ Maureen Appel Molot and Fen Osler Hampson, editors, *Canada Among Nations 2000 - Vanishing Borders*, (Don Mills, Ontario: Oxford University Press, 2000).

²⁰¹ The analogy of the US’s addiction to security is that of Peter Harvey expressed in an unpublished article entitled “Canada’s Addiction to Security: The Illusion of Choice in the War on Terror”, prepared for the *American Review of Canadian Studies* Conference, Woodrow Wilson Canadian Institute, Washington, D.C., November 2004.

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Appendix A

Canada – US Border Policies – Chronological List of Events

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Date	Canada	US	Joint	Description / Comments
November 1988	Election of Brian Mulroney (Nov. 21)	Election of George Bush		
November 1992		Election of Bill Clinton		“Reinventing Government” initiatives included a task force headed by Vice President Gore on eliminating checks at the border.
Oct. 25, 1993 Dec. 8, 1993	Election of Jean Chrétien	Customs Modernization Act		The demand for the bill grew out of concerns many had in Congress that the policing of US borders required improvement in order to cope with the growing pressures of trade and individuals crossing in and out of the US with increasing frequency.
Jan. 1, 1994	Beginning of NAFTA			
Feb. 25, 1995			US – Canada Shared Border Accord	Open Skies Agreement was also signed during this meeting. Is this a possible example of the spillover effect?
Aug. 1995		Immigration in the National Interest Act		This bill was intended to become the counterpart of the Customs Modernization Act of 1993, reforming an array of regulations and procedural requirements in the legislation governing the INS. When several amendments caused passage to be delayed, it was renamed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
1996			Integrated Border Enforcement Teams (IBETs)	The IBET is a multi-agency law enforcement team that emphasises a harmonised approach to Canadian and US efforts to target cross-border criminal activity
Mar. 21, 1996		Illegal Immigration Reform and Immigration Responsibility Act (signed into law, deadline for implementation October 1998)		Section 110 requires all foreigners to be registered when entering or leaving the US. The main concern of this bill was illegal migration across the US border with Mexico. Canada argued hard so that Canadians be exempt from this requirement stating that long lines at the border would be the consequence of the implementation of this bill.
November 1996		Re-election of Bill Clinton		
Jun. 2, 1997	Re-election of Jean Chrétien			
Feb. 1997			Canadian Anti-Smuggling Working Group and the Northeast Border Working Group	To coordinate an intensified campaign by national immigration and law enforcement resources in each country to combat human and contraband smuggling through the Ontario and Quebec in to New York and some New England states.

Apr. 1997			Border Vision Initiative	Facilitate greater information sharing and coordination between Citizenship and Immigration Canada (CIC) and the INS, particularly the land border, through intelligence sharing on illegal immigration.
Sep. 30, 1997			Cross-Border Crime Forum	<p>Originally developed to tackle smuggling activities in the eastern regions of both countries, the Forum has evolved over the years to address other important cross-border crime issues and to include the participation of a wider number of agencies from each country. As a result, it has improved cooperation and information sharing between Canada and the U.S. and has been showcased as a model for cross-border law enforcement collaboration by other organizations, including the Asia-Pacific Economic Cooperation (APEC) and the Organization of American States (OAS).</p> <p>Fostered cooperation in immigration was created to encourage law enforcement agencies in both countries to work together more effectively to combat transnational crime. First, a procedure for mutual threat assessments was established. Then, a proposal to create Integrated Border Enforcement Teams (IBETs) was tested along the Washington - Columbia, - Washington border, where Canadian and US law enforcement agencies are working for federal, state, and local law enforcement agencies to conduct joint operations and enforcement operations.</p>
Jul. 30, 1998		Border Improvement and Immigration Act of 1998		<p>Easing of concern over illegal immigration in the US.</p> <p>Congress lifts the October 1999 deadline to implement Section 110 of the 1996 immigration reform legislation and provides modest funding for the development of an automated entry and exit control system to implement Section 110.</p>

Oct. 1999			Canada – United States Partnership (CUSP)	<p>Concern over the political collateral damage to the economies of border communities if Section 110 was fully implemented resulted in the mobilisation of local leaders to demand a role in the discussions that had largely remained exclusively between federal officials on both sides of the border.</p> <p>The CUSP pledged both governments to initiate a series of stakeholder consultations that would solicit ideas and input on border management from communities, interest groups, and businesses.</p> <p>Much of the content of the Smart Border Declaration and Action Plan stem from the work of the CUSP and other pre-9/11 cooperation.</p>
Dec. 14, 1999		Arrest of Ahmed Ressam		<p>Start of a lot of the domestic pressure in the US.</p> <p>The Ressam case received more attention than any previous incident involving terrorism at the Canada – US border.</p>
January 2000				Subcommittee on Immigration and Claims of the House Judiciary Committee holds a hearing on Canada’s immigration and border control policies and their effect on the US.
April 2000				<p>First consultations under the CUSP (also held in June 2000)</p> <p>The most important outcome of the CUSP process was the demonstration of the strength of the grassroots constituency in both countries for improvements at the Canada-US border.</p>
Jun. 15, 2000		Immigration and Naturalization Service Data Management Act		<p>Signed into law by President Clinton</p> <p>The new act built on the immigration reform legislation of 1996 and 1998 by authorising significant new funding for the development of information technology solutions for the implementing Section 110 provisions.</p>
October 2000			Conference “Rethinking the Line: the Canada – US Border”	Policy Research Initiative of the Privy Council and the universities of British Columbia and Washington – Perimeter approach to border management (continental border around two countries)

Nov. 2000	Election of Jean Chrétien for a third term (Nov. 27)	Election of George W. Bush	Beginning of the NEXUS program	<p>At the Blue Water Bridge crossing between Sarnia, Ontario and Port Huron, Michigan</p> <p>Under the NEXUS program, US Customs, the INS, CIC and Canada Customs developed a common data form, allowing travelers and shippers in both countries to file the same personal information form to apply for designation as a low-risk traveler. The program test was suspended in the wake of the September 11 attacks.</p> <p>The election of Vincente Fox in Mexico created the unique situation where North America the entire North American continent was occupied by newly-elected governments.</p>
Feb. 2000		Enhanced Border Security and Visa Entry Reform Act		
Sep. 11, 2001	Terrorist Attack on New York and Washington			
October 2001	Conference Board of Canada publishes report			Report calls for 1) enhance border efficiency by exploiting more intelligent methods of processing border examinations 2) move inspections away from the border itself 3) governments to work closely together to coordinate maybe even harmonise security and related policies, consider eliminating the border altogether
Oct. 24, 2001		Patriot Act		
November 2001	<p>Public Policy Forum Conference: "Canada's Policy Choices: Managing Our Border with the United States"</p> <p>Standing Committee on Foreign Affairs and International Trade issues a report entitled "Toward a Secure and Trade Efficient Border"</p>			
Dec. 12, 2001			Canada – US Smart Border Declaration	Contains some elements of perimeter security... "public security and economic security are mutually reinforcing"

Dec. 18, 2001	Anti-Terrorism Act			<p>Introduced by Ann McLellan on October 15. Amendments include a 5-year sunset clause on police powers of arrest and detention, and a reworded definition of terrorism to ensure legitimate protest is not suppressed.</p> <p>The minister has refused to back down on enhanced wiretap and electronic eavesdropping powers, or on provisions aimed at confiscating financial assets of terrorist groups.</p>
Jan. 23, 2002		Enhanced Border Security and Visa Entry Reform Act of 2002		
February 2002		Conference on "The Re-Bordering of North America: Integration or Exclusion after September 11?"		Watson Institute for International Studies at Brown University
March 2002		Mexico – US Smart Border Agreement		
June 2002			Initiation of FAST	See article in the National Post, June 29, 2002, "Joint Asylum Process Prevents "Shopping for Country"",
Oct. 31, 2002	Public Safety Act			
Nov. 19, 2002		Homeland Security Act		
December 2002	Canadian House of Commons Committee on Foreign Affairs and International Trade		Signature of Safe Third Country Agreement (December 5, 2002)	<p>Recommends to the Government to study the implications of establishing a security perimeter around North America – Report "Partners in North America"</p> <p>Came into effect on December 29, 2004</p>
January 2003	The Canadian Council of Chief Executives publishes "North American Security and Prosperity Initiative (NAPSI)"			Internal border should be simply a shared checkpoint within the Canada-US economic space
Oct. 3, 2003			Update to the Smart Border Action Plan	<p>Announcement by the US Government that Canadian and American citizens would not be subject to the US-VISIT program (entry-exit forms)</p> <p>See article in the Toronto Star, October 4, 2003, (Ridge Visit All About Borders)</p>

Dec. 12, 2003	Paul Martin assumes office as Jean Chrétien retires			Creation of a new Cabinet Committee on Canada – US relations, chaired by the Prime Minister and supported by a Canada – US Secretariat in the Privy Council Office. Creation of a new Minister of Public Safety and Emergency Preparedness, creation of the Canada Border Services Agency, creation of a National Security Advisor to the Prime Minister in the Privy Council Office
Jun. 28, 2004	Election of Paul Martin			
July 22, 2004		Release of the 9-11 Commission's final report		
November 2004		Re-election of George W. Bush		
December 2004	Release of the Auditor General's Report on Canada's Antiterrorism Measures			
Mar. 23, 2005			Security and Prosperity Partnership of North America (with Mexico)	

Appendix B

Process Map - Theories

Appendix B – Process Map

<i>Year</i>	<i>Neofunctionalism</i>	<i>Liberal Intergovernmentalism</i>	<i>Transgovernmentalism</i>	<i>Realism</i>
1993	Customs Modernisation Act (US)			
1994				
1995	Open Skies Agreement	Accord on Our Shared Border Open Skies Agreement		
1996				Illegal Immigration Reform and Immigration Responsibility Act
1997		Border Vision Initiative	Canadian Anti-Smuggling Working Group (Canada) Northeast Border Working Group (US) Cross-Border Crime Forum (Integrated Border Enforcement Teams)	
1998				Border Improvement and Immigration Act (US)
1999		Canada – US Partnership Forum		
2000			NEXUS	Immigration and Naturalization Service Data Management Act (US) USA Patriot Act (US)
2001				Anti-Terrorism Act (Canada)
2002		Smart Border Agreement		Enhanced Border Security and Visa Entry Reform Act (US) Public Safety Act (Canada) Homeland Security Act (US)
2003				
2004				
2005		Security and Prosperity Partnership of North America (with Mexico)		