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A new start at fixing U.S.-Canada border

Leaders must overcome mistakes of past

By Thomas d'Aquino and Michael Hart

Hats off to Prime Minister Stephen Harper and President Barack Obama for forging a new start on a project that has for too long languished on the back burner. It has now been nearly a decade since the terrorist strike of 9/11 marked the end of nearly 70 years of bilateral effort to make cross-border commerce, tourism, and family visits easier for Canadians and Americans alike. Dating back to the 1936 and 1938 Good Neighbour Agreements through to the 1989 Canada-U.S. Free Trade Agreement and the 1994 North American Free Trade Agreements, Canadian and U.S. governments have agreed on a bipartisan basis that a welcoming and well-functioning border was in their mutual interest.

The response of the U.S. government to the security threat posed by international terrorism was both understandable and necessary. What was less understandable was the reaction of some Canadians that this was largely a U.S. problem and that there was little to gain and perhaps something to lose from a co-operative stance. Canadian business leaders

quickly raised the alarm when cross-border commerce jammed up, and within months of the terrorist strikes prime minister Jean Chrétien and president George W. Bush gave their blessings to the 2001 Smart Border Accord. The ability to reach such an accord swiftly was due largely to the spadework that had been carried out under such initiatives as the 1996 Shared Border Accord and the 1999 Canada-United States Partnership Forum.

Unfortunately, three things went wrong. First, agreement to work within the confines of existing legal mandates limited the ability to address some of the more difficult issues. Real progress required willingness to contemplate legislative changes. Secondly, bureaucratic inertia wore out political commitment as the work plan steadily became captive to bureaucratic priorities and short-term political sensitivities. Finally, insufficient attention was paid to the underlying tasks that make modern border crossings much more than places to collect revenue and keep out terrorists and criminals.

In the face of the crisis, a bigger opportunity was missed — to craft a grander accord that would significantly enhance the security and competitiveness of our two countries in a rapidly transforming world. Several bold proposals to do just that emerged from academics, think-tanks and business groups in the 2001-04 period, but in the end Canada and the United States pursued parallel paths rather than a joint approach. The U.S. did a lot more on the technology side and Canada did more in improving physical infrastructure. Subsequent efforts to breathe new life into the Smart Border Accord with the ambitious 2005 Prosperity and Security Partnership failed to undo the mindset that had come to dominate border procedures: Security trumps prosperity.

By the time President Obama came to Ottawa in February 2009, both leaders accepted that they had to do better. After a very useful and productive exchange of views, they “instructed senior officials to meet at an early date to develop strategies to enhance our collective security in North America, including reviewing the management of the Canada-U.S. border.” For two years now, officials on both sides of the border have engaged in a careful dance aimed at fleshing out an agenda to make this promise a reality. The agenda was unveiled last Friday. The two leaders agreed that they need to work together not only to improve border security but also to improve the free flow of goods and people, and that they will do so on the basis of shared interests and values. We are impressed.

The prospect of returning to the productive pattern that prevailed for nearly three quarters of a century looks promising.

We like the fact that the two leaders have taken full ownership of this initiative and have staked their personal political capital on making significant progress over the next two years.

We agree with Mr. Harper that the two leaders “must continually work to ensure that inertia and bureaucratic sclerosis do not impair the legitimate flow of people, goods and services across our border.” To that end, a few important first steps will help them achieve this goal. First, both leaders should recognize that much of what needs to be done starts at home. Both should call in those cabinet officials and their senior advisors responsible for administering border programs and tell them they expect new attitudes and new approaches.

They should tell them that they intend to hold them responsible for ensuring that each and every agency with personnel and programs at the border are on the same side, dedicated to the same goals and to the same high standards, and that neither will tolerate the excuses created by the bureaucratic silos that are emblematic of current practice. They should emphasize that the time for inter-agency rivalry, agency-specific agendas, and cross-border gamesmanship is over. By the end of the year, for example, they should insist that major border

crossings be open 24/7 and offer the full range of necessary programs and procedures to travellers and shippers in both directions.

Second, they should tell them that best practice will be the new mantra, regardless of whether Canadian or American officials thought of it first. Learning from each other's positive experiences should be a no-brainer. Modern technologies, for example, will allow the two governments to pre-clear as many people and goods as possible before they arrive at the physical border. Clearance at the physical border yields inadequate information due to time constraints, making informed decisions about risk and compliance more difficult. Satisfying all clearance requirements at the border can also delay travellers and shippers, lead to traffic congestion, add to the cost of doing business across the border, and chill discretionary trade, investment and travel. Some of these programs exist, in whole or in part, on one side of the border or the other. The goal now should be to create a seamless joint regime based on shared data and common procedures. The technology to make it happen is well-established. There is no excuse for further delay.

In current global economic circumstances, reducing border costs and facilitating the movement of low-risk goods and people will contribute to faster economic recovery and ultimately to the improved competitiveness of our two countries. These goals can be accomplished by

expanding participation and delivering measurable benefits through existing trusted shipper and traveller programs and by introducing new, trusted programs based on operational consensus between the two countries' security specialists. Improvements such as implementing an integrated "single window" or portal for entering all border-related importing and exporting data, and differentiating between regulatory compliance and risk, will also contribute to better security outcomes.

Third, they should tell responsible officials that administering regulatory compliance, a large part of commercial border clearance, should be reduced to what is absolutely necessary. Much of this can and should be accomplished away from the border. Within both Canada and the United States, minor regulatory differences between the states and between the provinces do not need border procedures, but are dealt with through less intrusive means. Additionally, Obama and Harper should agree that at least at the federal level, they will insist on a "show-cause" rule affecting all future regulatory changes. Officials responsible for these changes will need to demonstrate that they have consulted with their opposite numbers in the other country in order to minimize differences and to justify any remaining differences that cannot be reconciled. Ultimately, regulatory differences should result from well-informed political decisions, rather than bureaucratic ones.

The land, sea, and air border points are shared strategic facilities, part of each country's critical national infrastructure. Designing the best way to deploy and protect these facilities requires that the management and strategic planning of the border be a bilateral responsibility. The co-operative management model has worked well for everything from military security to water management and the reduction of acid rain. This model has served, not impinged upon, both countries' national security interests. A similar relationship of trust, with a long-term vision, must be applied at the shared border. There is no better way to recognize and bridge security and trade facilitation concerns

and interests than to work side-by-side on both the management and the delivery of border security. Urgent action is needed now. Further delays will mean more missed opportunities and unacceptable levels of vulnerability should terrorists decide to strike again.

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