

NORTH AMERICAN BORDER PROCESSES AND METRICS

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On May 19, 2010 President Obama and President Calderón issued the *Declaration on Twenty-First Century Border Management* and created an Executive Steering Committee (ESC) to oversee its implementation.

On February 4, 2011 President Obama and Prime Minister Harper announced the U.S.-Canada joint declaration *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness* and created a Beyond the Border Working Group (BBWG) to craft an action plan.

Each declaration addresses a fundamentally different lived-experience of a U.S. border. What they have in common, however is that both describe a new understanding of the movement of people and goods, reframing the relationship between security and trade at the border.

In the U.S. - Mexico relationship there has long been a focus on the border both as a line on the map and as the lived experience of that line. The line is a defining issue in discussions of sovereignty and a

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Prior to joining DHS, Ms. Silver served as Policy Advisor in the office of Arizona Governor Janet Napolitano, where she supervised the state's relationships with public and private universities, community colleges, and vocational institutions, as well as with the Arizona Department of Commerce. She was instrumental in the creation of Science Foundation Arizona and the management of the P-20 Council, which was tasked with ensuring that Arizona students have the skills they need to move seamlessly from pre-kindergarten through to higher education.

Ms. Silver is the former Director of Strategic Projects for the Office of the President at Arizona State University (the largest public university in the United States), where she established research and teaching partnerships with universities throughout Asia and Europe. She also led ASU's creation of the International Institute for University Design, a collaboration with the People's Republic of China, which includes universities throughout Australia, China, Europe, Japan, Singapore, and the United States.

In the Office of the Executive Vice-Provost of Columbia University, Ms. Silver co-developed a multi-institution research response to the events of 9/11, which mobilized academic experts in information analysis and information management technologies to work with members of the U.S. intelligence community. At Columbia University she also helped establish the International Innovation Initiative (I-3). A graduate of Yale University, Ms. Silver also holds an MSc in Science and Technology Policy from the University of Sussex (UK). She is a doctoral candidate in Economic Geography at the University of California at Los Angeles (UCLA).

figural matter in the development of policy stances in each country. The relationship is larger than that line, to be sure, but the line itself has persisted as a focus of discussion, and as a locus of tension. The contemporary U.S.-Canada relationship, by contrast, has largely not focused on the physical point at which our two countries touch. We have long thought of Canada and the U.S. in the same security sphere (as evidenced for example by NORAD²) and in the same trade sphere. In fact, there is a sense in the U.S.-Canada relationship that, while sovereignty is deeply important, before September 11, 2001 (9/11) the line itself mattered little if at all.

Beyond the Border

Following the events of 9/11 and the United States' resultant intensified focus on borders and border security to prevent terrorism, many felt the traditional U.S.-Canada border relationship had been whittled away and the border "thickened." Where previously in many locations there had been, effectively, no border—that is, a line accompanied by minimal enforcement—now there was increased enforcement. Where people had crossed relatively easily between the two countries for work or leisure, now the border was a (largely unwelcome) presence in their lives. The shift in the border experience, and in communities' perceptions of the border, was perhaps best exemplified by the Western Hemisphere Travel Initiative (WHTI) which requires all citizens of the U.S. and Canada to present a passport or other WHTI compliant document that indicates citizenship and identity in order to enter or depart the United States. WHTI implementation became a perpetual point of tension in U.S.-Canadian policy conversations.

In Canada, where 90 percent of the population lives within 100 miles of the border, this shift was felt particularly acutely and brought into question for many the overall relationship, deep friendship, and long-held trust between the two countries. The idea that terrorists would come to the U.S. via Canada made most Canadians bristle (although, before 9/11, the "Millennium Bomber" did plan to get to his target—the Los Angeles International Airport—by crossing into the U.S. from Canada via ferry). There was certainly border enforcement by both countries prior to 9/11. Both countries had monitored the movement of people and goods and enforced the laws governing both, but in the years following 9/11 there developed an increasing sense that the border was more than a line on a map and that the relationship between the two close neighbors was becoming securitized in a way that was unfamiliar. There was community concern and economic concern (the U.S. and Canada enjoy the world's largest bilateral trading relationship) about this "thickening of the border." *Beyond the Border* (BTB) sought to reframe the policy conversation and the public conversation about the relationship between the two countries and the roles of security and trade, as well as of the border, in that relationship.

The core of the *Beyond the Border* declaration is its mutual commitment to "pursue a perimeter approach to security and accelerate the legitimate flow of people, goods, and services between our two countries." The declaration proposed to do this partly by the two countries working together to "address threats within, at, and away from our borders, while expediting lawful trade and travel." This articulation of the concept of perimeter security, once a forbidden term in Canadian policy circles,

² North American Aerospace Defense Command (NORAD)

embraces Canada and the U.S. in the same security sphere as well as in the same economic sphere, and seeks to protect both from security as well as economic threats through strategic integration while maintaining clearly each country's sovereignty.

Unlike most previous post-9/11 efforts to reframe the security and economic conversation between the two governments, BTB did not originate as a top down agenda. Rather, it grew from an agency-initiated dialogue on both sides (starting with the U.S. Department of Homeland Security (DHS) and Public Safety Canada (PSC)) begun with mutual recognition that policy discussions around the border and related issues had stagnated. The goal was to come up with a new way to think about the relationship, and the border as part of that relationship, in order to refresh our ideas of what projects, programs, and initiatives the two countries could jointly pursue. As this DHS-PSC conversation developed, other agencies were brought in and high-level leadership on both sides expressed interest in broadening the effort while raising its profile.

Once the declaration was issued, each country set up teams drawing on capabilities and expertise from across each government that comprised the bilateral Beyond the Border Working Group (BBWG) to build and execute an action plan that focused on the following four areas:

- Addressing Threats Early
- Trade Facilitation, Economic Growth, and Jobs
- Integrated Cross-Border Law Enforcement
- Critical Infrastructure and Cyber Security

Under each of these areas there are now multiple ongoing activities and efforts to harmonize or build compatible procedures, and share information in order to assess and mitigate risks. However, this is not just a consultative process between two governments. The BBWG process was designed to incorporate the views and concerns of communities and industry as well.

The BBWG has since become an Executive Steering Committee (ESC) chaired by the National Security Staff (NSS) Senior Director for Transborder Affairs and Senior Director for Western Hemisphere on the U.S. side and a Senior Advisor to the Privy Council Office, (who is also responsible for the work of the Regulatory Cooperation Commission,) on the Canadian side. This bilateral ESC and its subgroups continue to pursue a range of initiatives to align and make more compatible Canadian and U.S. processes, protocols, and programs while also developing new initiatives including immigration and entry-exit related information sharing, integrated law enforcement, and establishment of shared privacy principles. (For a more detailed 12/12 update see http://www.whitehouse.gov/sites/default/files/docs/btb_implementation_report.pdf).

The BTB process established a new frame for the U.S. and Canada's joint responsibility for the security of our shared communities and shared economic sphere, including the perimeter, a necessary condition for advancing economic prosperity.

The U.S.-Mexico *Declaration on Twenty-First Century Border Management* also focuses on what many now call co-responsibility, but in this case it is quite specifically co-responsibility for the management of the border itself, not the perimeter, and the secure movement of legitimate trade and travel across that border. This is a significant departure from previous border conversations, as the border had long been considered a U.S. law enforcement problem, not a shared challenge for which both countries should take responsibility. The *Twenty-First Century Border* declaration emphasized the importance of the Mexican government and U.S. government counterparts working together to manage and guard the border. The declaration focuses heavily on the border itself and hinges on the “desire to fundamentally restructure the way in which the shared border between Mexico and the United States is managed” recognizing that “joint and collaborative administration of their common border is critical to transforming management of the border to enhance security and efficiency.”

The declaration also engages issues that reach into the interior of both countries, including the need to disrupt and dismantle transnational criminal organizations, and to shift some screening and inspection activities away from the line itself so that the physical border need not be the locus of all border related enforcement activity. This element of the declaration complements the larger U.S.-Mexico work on security collaboration, for example through the Merida Initiative.

Like the BTB declaration, the *Twenty-First Century Border* declaration sets up a binational mechanism for implementation, the Executive Steering Committee (ESC), which draws high level participation from agencies across both governments and is tasked to focus efforts in four areas:

- Enhancing economic competitiveness by expediting lawful trade, while preventing the transit of illegal merchandise between their two countries;
- Facilitating lawful travel in a manner that also prevents the illegal movement of people between their two countries;
- Sharing information that enhances secure flows of goods and people, and;
- Disrupting and dismantling transnational criminal organizations and punishing their members and supporters.

The ESC is the first such high level mechanism between the U.S. and Mexico that takes a holistic view of the border, and its relationship to the interior. It is the first time that the two countries have gotten together to discuss the border and its management in a comprehensive way that brings together all of the relevant government agencies on both sides. It is, in a sense, the bureaucratic embodiment of co-responsibility. The participating agencies and departments are even listed in the text of the declaration. This group was able to further parse the four areas in the declaration to define specific projects and programs (some of which are listed in the declaration itself) that need to be addressed. The group houses these issues under three main working groups, all of which include representatives not just from the principal U.S. and Mexican counterpart agencies, but from all relevant U.S. and Mexican agencies. The working groups are:

- Border Infrastructure Planning
- Secure Flows
- Corridor Security

The titles of these groups, particularly the last two, also tell us something significant about the process that the ESC is overseeing. As in the BTB discussion with Canada (though confronting very different on the ground circumstances), the *Twenty-First Century Border* declaration reframed the previously understood dichotomy and antagonistic relationship between trade and security. Instead, it pairs security and economics by emphasizing a risk-based approach to improve the allocation of resources and increase the efficiency of the flows of legitimate people and goods across the shared border. Rather than viewing enhanced security as only dependent upon increased scrutiny, and therefore slower traffic at the line itself, the new approach emphasizes the need to segment traffic based on risk, thereby moving known, legitimate travelers and cargo *faster* and more efficiently across the border, and thus giving law enforcement the capacity to focus on those travelers and cargo that are unknown or higher risk. Additionally, it embeds the idea of corridors and flows into ongoing policy development and discussion as ways of thinking about and making policy regarding the way we travel and trade. This expressly ties the border-as-line to a border-as-conduit concept and ties what goes on at the border to what goes on in the interior of both countries.

The BBWG and ESC processes and their results embody a rethinking of each of the United States' land border relationships. While the circumstances at each border are very different—as are the relationships the U.S. has with each neighbor—both efforts indicate recognition by the parties that borders are shared spaces of flows, not just lines on a map (or in the sand). The borders, and the relationships we build with contiguous land neighbors, provide opportunities for law enforcement interventions and economic exchange, as well as community development, which enhance the prospects for all three countries. Mexico now has a new administration in place and all indications are that the ESC process has already proven valuable enough to continue through this political shift. The U.S.-Canada process continues to evolve and to be an important engagement in the bilateral relationship. When looked at together with the work of the Regulatory Cooperation Councils (there is a U.S.-Canada RCC as well as a U.S.-Mexico RCC called the “High Level RCC” or HLRCC) these declarations and the work that has flowed from them paint a clear picture of efforts to make the borders loci of trade facilitation that encourage shared prosperity as well as points of security and enforcement. This view that, as the DHS Northern Border Strategy states, “Security and lawful trade and travel are mutually reinforcing” requires intensive cooperation between neighbors and shared responsibility for the security and viability of both the borders themselves and of the flows that connect us.