

Inside the security perimeter after 9/11

A SENSIBLE IDEA

It seems like a perfectly sensible idea. Both Canada and the United States benefit from an open border between them, but American security concerns need to be addressed in order to keep that border open. Creating a common security perimeter means meeting security threats at the edge of the common North American space, rather than at the borders between the continent's countries.

A common security perimeter is not only a sensible idea, it is quite an old one. Canada has long lived with a security perimeter shared with the United States, through its participation in NORAD (North American Aerospace Defence Command). NORAD provided a defensive perimeter that was shared by Canada and the United States and jointly defended against the threat of Soviet bomber and missile attack. By September 2001, it appeared that NORAD had outlived its usefulness, as there were no Soviets, let alone a bomber threat.

What 9/11 demonstrated, however, was that there was an aerial threat from within the border policed by NORAD, in the thousands of commercial and other flights that criss-cross the North American skies daily. Suddenly, NORAD had a renewed *raison d'être*, and since 2001 it has monitored all air traffic across Canada and the United States for unexplained flights and diversions.

The NORAD experience raises the question of what happens inside a common security perimeter, which is a crucial question for Canada as we contemplate the possibility of building any form of perimeter with the new US administration.

KEEPING BORDERS OPEN

The European Union provides useful markers for answering that question. The EU faces even greater pressures than North America to keep its internal borders open, and so in the late 1980s it attempted to eliminate them entirely.

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Such a radical step was unacceptable to some members, because it would have meant that anyone who entered one EU country could have moved to any other unchecked. The problems such movement raised were seen in largely economic and cultural terms, rather than as a question of security, although the latter was also clearly an issue. A common border entails a range of policies within that borderland (immigration, refugee policy, and security checking) that have to be harmonized, or at least mutually accepted—what the Europeans call *juste retour*.

The pressure to harmonize border policies predates the notion of a North American security perimeter. Immediately following the attacks of 9/11, the suggestion was made in the United States—including by the current secretary of state—that some of the attackers had entered the United States from Canada. Even when this quickly was shown not to be the case, there were calls for Canada to tighten immigration

and refugee rules to protect the United States. In order for the border to stay relatively open, Canada had to ensure the security of the United States.

The irony of these demands, of course, was that Canada had stronger controls on entry than did the United States. What is telling is that Canada did not loudly demand that the United States tighten its controls to meet Canada's standard and thereby ensure our common security.

Despite the absence of a common security standard, the North American security perimeter (NASP) idea was launched in 2005 by the United States, precisely in terms of security harmonization: "We are launching the next generation of our common security strategy to further secure North America and ensure the streamlined movement of legitimate travellers and cargo across our shared borders. To this end, Canada, the United States, and Mexico will work together to ensure the highest continent-wide security standards and streamlined risk-based border processes are achieved." This initial statement of intent from the Security and Prosperity Partnership of North America Security Agenda was followed by an outlining of the key areas of security in which the three countries would work to implement common strategies and standards. Canada was being invited to fold most of its internal security into a continental system, in order to maintain easy access across the Canada-US border.

WHAT ARE WE GETTING OURSELVES INTO?

The question facing Canada at this juncture, therefore, is what sort of internal security regime will be contained by the perimeter? The answer to this question can only be answered in working together with the new administration. We should count ourselves lucky we have this chance. If the NASP had been more fully developed in the past three years, Canada would have been harmonizing

with the security regime enacted by the recently departed Bush administration—to any greater degree than has already happened. It is not an exaggeration to say that the security regime constructed by the Bush administration marks an assault on the foundation of democracy in individual rights and the rule of law. The features of this assault are both well known and extraordinary, symbolized by the prison installation at Guantanamo Bay.

Guantanamo was built explicitly to remove accused terrorists from the reach of US courts—that is, to construct the central response to global terrorism outside the rule of law. Having attempted to build a zone of legal exclusion domestically, the administration then sought to exempt it from international law by not only trying to except prisoners from the Geneva Conventions by inventing the “unlawful combatant” label, but attacking the very legitimacy of international humanitarian law by suggesting that it is not applicable to contemporary warfare. The attack on liberties and the guarantees of the rule of law spread virulently outward from Guantanamo. Torture was sanctioned within its walls and outsourced to other countries through the escalation of the repugnant program of “extraordinary rendition”—sending Canadian Maher Arar among others to be tortured abroad.

Even within the United States, the attack continued on due process and the civil guarantees, which are supposed to be the hallmark of “the world’s first democracy.” Early in the “war on terror,” the Bush administration proposed the TIPS (Terrorism Information and Prevention System) program. TIPS involved enrolling service people (for example, cable repairmen) to report on any suspicious behaviour they encountered when they entered people’s houses. Even in the aftermath of 9/11, the US Congress could not accept the idea of citizens informing on one another, and so TIPS was never implemented. The White House has, however, admitted to authorizing illegal, indeed unconstitutional, spying on its own citizens.

With an incoming administration, there is a tremendous opportunity for Canada to help to shape that harmonized future.

THE NASP: A WAY FORWARD

For all I have said critically, a common security perimeter remains a seemingly sensible idea. For it to be feasible, each must trust in the security of the borders that they do not share—and, at least for the United States, that is unlikely to be accomplished through *juste retour*. The United States is likely only to trust our immigration and refugee standards—for example, our judgment of who is or is not a terrorist—if our policies and procedures largely mirror their own. Canada is thus in a position in which harmonizing, even further, its approach to security with the United States will be all but essential. With an incoming administration, there is a tremendous opportunity for Canada to help to shape that harmonized future.

For the Obama administration, the NASP will continue to be a very good idea. President Obama faces one of the most difficult economic crises of the past century, and while there will be strong protectionist temptations, the memory of Smoot-Hawley and the Great Depression are likely to foster a strong desire for continued, even enhanced, trade. Canada remains near the top of the list of US trading partners, and the United States is, of course, right at the top of Canada’s, and so the open border between the two is in the interests of both economies despite the rise of US protectionism and Buy American provisions.

Politically, the new president’s greatest weakness is on security, and so he will face pressure to be strong and be seen to be strong, but he does have opportunities to redefine strength in ways other than the discredited policies of his predecessor. Indeed, the incoming Obama administration seems set on reorienting the US security regime in a rather more liberal direction—beginning with the rapid closure of the symbol of

its illiberal predecessor, Guantanamo Bay. For Canada, this provides an important opportunity.

Working with the new administration to make that changed regime consistent with Canada’s commitment to the rule of law could greatly benefit both countries. A new regime can be constructed either by harmonizing our internal security policies—the rules for letting people and goods into the country, and the means of monitoring them once they are here—or by openly agreeing with the United States to recognize the validity of each other’s systems. In either event, institutionalizing the system within a shared perimeter will make it difficult to change unilaterally, on either side of the Canada-US border. 🍁

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