

Gazing into Our Crystal Ball in 2017: The Stakeholder Role in Facilitating Flows at the Canada-U.S. Border

Overview of the Issue

For the past 15 years, the United States and Canada concertedly and consistently tried to secure and, at the same time, facilitate, the legitimate flow of goods, people and services across the Northern border. When you think about the sheer magnitude of exchange between these two countries – \$574 billion in total (two-way) trade in 2015 – the pressure is on to get the balance between security and facilitation right. Balancing these competing interests, however, is fraught with difficulty. Practical tradeoffs often lead to longer and costly wait times in crossing the border, which have ripple effects on economic well-being. For example, researchers (Park et al., 2014) used a simulation tool (the Transportation-combined National Interstate Economic Model or a TransNIEMO model) to measure the local economic impact resulting from crossing delays at two of the busiest crossings along the Northern border – the Lewiston-Queenston Bridge and the Peace Bridge, both of which connect southern Ontario to western New York. Their findings suggest that the local economic impact of delays on these bridges range from a total of \$36,000 to \$110,000 per day. This means that for every 1 percent increase in delay time on the bridges there is a corresponding 1.33 percent increase in economic cost to the local economy. If we were to move beyond the bridges between Buffalo and Ontario, we would see even greater total economic costs (Park, et al., 2014). Clearly, delays and freight disruptions have significant impact. What, then, can the United States and Canada do about it?



**BORDERS IN
GLOBALIZATION**

Most Relevant Existing Policies and Legislation

The most relevant policies and legislation that address border security and legitimate trade flows between Canada and the U.S are promulgated, not surprisingly, at the federal level in both countries. For example, building upon a strong tradition of partnership, the Beyond the Border (BTB) Accord was announced by President Obama and Prime Minister Harper in 2011. Under the auspices of the BTB Accord, Canada and the United States most recently have: 1) launched an automated biometric-based (fingerprint) query capability in order to counter identity fraud, strengthen identity management and provide valuable information to inform respective admissibility determinations; 2) signed an historic Preclearance Agreement that will, once in force, enable new preclearance operations on both sides of the border in all modes of transportation (land, rail, marine and air); 3) reached 1.3 million NEXUS members, as of December 2015 – representing an increase of nearly 17 percent over 2014 and over 110 percent since 2011; 4) worked with Mexico to expand eligibility across North America in trusted traveler programs that speed the entry of pre-screened travelers; and 5) issued the second annual Border Infrastructure Investment Plan, conducted consultations with stakeholders and held a series of regional webinar roundtables to help harmonize efforts to move forward with deploying wait time solutions at crossings.

Second, to further efforts to enhance trade efficiencies, the Canada – United States Regulatory Cooperation Council (RCC), which was announced around the same time as BTB, focuses on transparency and coordination in the regulatory practices in both countries. Regulatory partnerships among various agencies are integral to this effort, and have been undertaken by agencies including the U.S. Food and Drug Administration and Health Canada; the U.S. Environmental Protection Agency and the Pesticide Management Regulatory Agency of Canada and Environment and Climate Change Canada; the U.S. Occupational Safety & Health Administration and Health Canada; the U.S. Animal and Plant Health Inspection Service and Food Safety and Inspection Service – Canadian food Inspection Agencies; U.S. Coast Guard and Transport Canada; U. S. Department of Energy and Natural Resources Canada; and the U. S. National Oceanic and Atmospheric Administration and the Department of Fisheries and Oceans Canada. These agencies publish biannual work plans and host stakeholder forums to inform senior officials on regulatory alignment opportunities and provide input on future work.

Stakeholders

In addition to the agencies noted above, a number of other stakeholders engage in the Canada-U.S. relationship as it relates to the border. Some of the most important stakeholders in this relationship are:

- The U. S. Department of Homeland Security (DHS) is a cabinet department of the United States federal government that focuses on U.S. public security and safety. DHS became operational on January 24, 2003, which was two years after the September 11, 2001 terrorist attacks in the U.S. It was under advisement of the DHS that stricter searches and inspections on freight crossing the border between the U.S. and Canada would increase the safety against future terrorist attacks (U.S. Department of Homeland Security, 2016).
- The U.S. Department of Commerce is a cabinet department section of the United States federal government that is dedicated to promoting economic growth. Canada and the U.S. are among each other’s largest economic trading partners, and each country is negatively impacted by delays and increased searches at the borders (U.S. Department of Commerce, 2016).
- The U.S. United States Department of Transportation (USDOT) is a department of the U.S. federal executive branch responsible for the upkeep and safety of the national highways, railroads and airways. This department is also interested “facilitating the free flow of goods and people to and from Canada” (Friedman, 2010).
- Transport Canada reports directly to the Parliament through the minister of Transport. Its mandate is to “promote safe, secure, efficient and environmentally-responsible transportation” (Transport Canada, 2016).
- Public Safety Canada was established in 2003 to keep Canada and its citizens safe from foreign and domestic terrorism. Like the DHS, their role is

enforcing and securing the border between Canada and the U.S. and other foreign countries (territories of Denmark and France). Like the U.S., they have increased the amount of protocols and inspections that occur when inspecting freight moving in / out of their country (Public Safety Canada, 2016).

- Global Affairs Canada and Industry Canada focus on the trade between Canada and the U.S. and the impact the

border has on trade between these two countries. They work with Public Safety Canada and the U.S. Department of Transportation, Department of Commerce and the Department of State (Global Affairs Canada, 2016).

- The SAGE Network, a grass roots effort launched in 2016 in Columbus, Ohio that serves in an advocacy and “reality check” role for the governments when thinking of border policies.

Important Policy Challenges

Although significant and successful in their own right, the BTB Accord and RCC are viewed currently as vestiges of the Harper-Obama era. Given the still-relatively new Trudeau Government in Canada and the incoming Trump Administration in the United States, it is reasonable to believe that each will want its own “signature” policies in place to better balance border security and legitimate flows of goods, people and services. Also, given the U.S. President-elect’s public statements about renegotiating the North American Free Trade Agreement, as well as his well-known approach to negotiation (Trump and Schwartz, 2009), we could expect that all cards in the Canada-US relationship are now on the table for 2017 and beyond.

Policy Alternatives and Policy Futures

In the waning days of 2016, both U.S. legislative chambers adopted a preclearance bill, which aims to establish pilot projects with U.S. customs offices on the Canadian side of the border allowing travelers to get screened more quickly, move through the actual border and ease logjams that slow travel and commerce. It is now expected to become law with President Obama's signature. Although the Canadian government has to pass similar legislation in Canada, this is viewed as a significant step in reducing border delays and congestion.

Regardless of what the Trudeau Government and Trump Administration negotiate, Canada-US stakeholders will continue to be at the forefront of the binational conversation. These voices have always been essential to building a consensus for action among leaders in both countries (Sands, 2016). Thus, we can expect strong stakeholder engagement and direction from the bottom-up on finalizing preclearance of passengers and goods. Further, stakeholders are organizing and advocating on issues such as a review of Canada’s de minimis thresholds, below which goods purchased abroad for delivery are exempt from duties. The current thresholds are highly imbalanced between Canada and the US. Also stakeholders are urging both governments to identify opportunities to extend to a wider range of supply chain partners the CBSA’s Courier Low Value Shipment (LVS) Program, which streamlines customs processing and provides expedited release for shipments valued at CAD\$2500 or less for participating couriers. Finally, stakeholders also are recommending new cooperative border agreements that stress

outcome targets over output targets. For example, performance targets for trusted traveler and trusted trader programs should be based not on the number of members in those programs, but rather on the cost and time savings enjoyed by the members over non-members. Thus, civil society will be active and may play an even stronger role in the relationship in the next few years.

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