TROUBLED BORDERS:
CANADA, THE UNITED STATES AND MEXICO

by

Joe Bissett, former Executive Director, Canadian Immigration Service

Throughout the twentieth century Canadians and Americans have boasted about sharing the longest undefended border in the world. It is a reputation well deserved. There has been no conflict across the border since the Fenian raids of the mid-1860s. The border has evolved into a symbol of peace. It has stood as an example to other nations of how good neighbors can live side by side without fences and barbed wire.

Now the undefended border no longer exists. Since the catastrophic 9/11 attack on the World Trade Center and the Pentagon, the United States does not believe the border with Canada can remain undefended. The Americans have taken steps to defend it.

Immediately after the terrorist attack, US National Guardsmen were rushed to reinforce the border with Canada. Since then the number of border control officers along the 4000-mile boundary separating the two countries has been tripled. Further measures are being taken to ensure that potential terrorists do not gain entry from Canada. The Americans see the previously undefended border with Canada as a liability in the war against terrorism.

The northern border is now considered to be a more serious security problem than the traditionally heavily guarded – yet porous – border with Mexico. The cause for this concern has been the perception in the United States that Canada has not taken the terrorist threat seriously.

BEFORE 9/11

Before the attack on the World Trade Center and the Pentagon the United States and Canada had a relaxed attitude about the border. It was customary for residents of either country to cross the international boundary with only a driver’s license for identity. Passports, visas, even birth certificates, were seldom required. This laissez faire approach reflected years of free travel and the important tourist and commercial interests shared by both countries. Border control scrutiny with document and identity checks were alien concepts to countries whose citizens shared the same values and were accustomed to freedom of movement between their respective countries.

Moreover, Canada and the United States were major immigrant receiving countries. Immigration was part of their heritage, a part of nation building. Political sensitivity towards ethnic voters translated into a generous and flexible approach to immigration law enforcement. Neither country took immigration control nor enforcement of immigration laws seriously. This was especially true of the United States
where it was estimated that from 9 to 11 million aliens lived in the country illegally – the majority of whom were from Mexico or Central America.

People who entered Canada or the United States as students or visitors were not required to inform authorities of their whereabouts. There was no exit control and no tracking system. Those who overstayed were seldom forced to return home. Deportation of other than serious criminals was the exception. The removal process was expensive, frequently involved lengthy litigation and created a negative message.

In New York, Los Angeles, Chicago and other major US cities local law enforcement officers were ordered not to report illegal aliens to federal authorities unless they were suspected of having committed a criminal offence. In the United States, as in Canada, strict enforcement of immigration laws was the exception, not the rule. The media collaborated in this parody by frequently highlighting and sympathizing with the plight of any poor illegal alien who had the misfortune of having been apprehended and ordered deported.

In the United States before the September 11 attack there were 314,000 illegal aliens who had been ordered deported but who remained at large. Some 78,000 of these were people from terrorist producing countries. In Canada, the Auditor General reported that 36,000 arrest warrants for individuals in Canada who had evaded the removal process had not been acted upon. In both countries violation of immigration laws was common and of little consequence.

Politicians in both countries frequently intervened to stop the deportation of people who had violated immigration rules. Obtaining a social security number, a driver’s license or opening a bank account was not a problem for people in the country illegally. In neither country were the immigration enforcement and control agencies adequately staffed to perform other than token activities.

The first line of defense against the entry of undesirables is the imposition of a visa system designed to screen out the criminals, terrorists and others who are not admissible under the immigration laws. Yet visas to enter Canada or the United States were frequently issued by locally engaged staff. Often Consular officers would issue visas to people without a personal interview. The emphasis in both countries was on facilitation and approval, not on careful consideration of security issues. All of the 19 terrorists involved in the 9/11 attacks entered the United States on temporary visas and some of them received their visa without being seen by an American official.

### AFTER 9/11 – THE AMERICAN EXPERIENCE

In the United States, after 9/11 all of this changed. Suddenly Americans were aware that they were vulnerable to attack from within. More frightening was the realization that one fanatic armed with a weapon of mass destruction could paralyze the country. One dirty bomb detonated in the city of Boston could destroy the whole of the eastern seaboard of the United States. One small nuclear device, smaller than a football, smuggled in a container aboard a freighter entering San Francisco harbor could devastate the California coastal region. This was the new reality and it was a frightening one.

The Americans reacted to the 9/11 calamity with force, determination and speed. President Bush declared war against terrorism and assumed executive powers unheard of in the United States except in time of war. Retaliation against the Taliban and Al Qaeda in Afghanistan swiftly followed, demonstrating the awful power of the US military. At home in the United States security became the number one priority.

The US Congress, the media and ordinary citizens demanded assurances the Government was taking immediate steps to prevent another attack. Agencies responsible for security and intelligence, primarily,
the Federal Bureau of Investigation [FBI] and The Central Intelligence Agency [CIA] were accused of a massive intelligence failure. The Immigration and Naturalization Service [INS] and the Consular Service of the State Department were criticized for laxity in the screening of students, visitors, businessmen and others entering the United States.

Securing the borders of the United States presents an awesome challenge. It is estimated that 500 million people, 11 million trucks and two million rail cars enter into the United States each year. Over 7,500 foreign vessels make 51,000 calls at American ports. Between Canada and the United States approximately 500,000 people and 50,000 trucks cross the border every day. Nevertheless there was determination to meet the challenge.

Among the first steps taken to respond to the public’s concern and to restore shaken confidence was tighter security along the border and increased diligence at airports and seaports. A new Department of Homeland Security was established incorporating the Customs service, the Coast Guard, the Federal Emergency Management Agency, the Border Patrol and the Immigration and Naturalization Service. The new Department was allotted a budget of 38 billion dollars and a staff of 170,000 employees.

In other areas there was an emphasis on improved cooperation and intelligence sharing among the various agencies involved in security issues. The freezing of suspected terrorist assets and tracing of suspected financial flows became a priority activity. Congress passed the Enhanced Border Security and Visa Reform Act requiring everyone entering or leaving the United States to be subject to strict entry and exit controls. A tracking system for aliens has been introduced and entrants to the United States may be photographed and fingerprinted. The new law is now in process and is to be fully implemented by 2005.

Both at home and outside of the United States, the President’s war on terrorism has been characterized by initiative, purpose and action. This has not appeared to be the case in Canada. Despite the passage of what some Canadians believe to be draconian amendments to the criminal code designed to combat terrorist activities and the signing of a Smart Border Declaration with the United States, there remains serious doubt by many Americans that Canada has taken the war on terrorism seriously.

**AFTER 9/11 – THE CANADIAN EXPERIENCE**

The problem stems from what appears to be hesitancy and delay on the part of Canada to take the terrorist threat seriously. Even before 9/11 the Americans had expressed concern that Canada was not pulling its weight in terms of military spending. Shortly after the terrorist attack Prime Minister Chretien’s explanation for the incident as a natural outcome of economic disparity between the regions of the world was interpreted as an unsympathetic and misguided response. Even the measures that were taken by Canada appeared to be taken with reluctance and without conviction.

The omnibus security Bill C36 contained stringent provisions for charging terrorists and preventing their activities in Canada but these provisions only became active if the Government identified an organization to be “listed” as a terrorist group. Unfortunately, there were lengthy delays before the Canadian Cabinet “listed” even terrorist organizations such as Hamas, Hezbollah and the Al Aqsa Martyrs’ Brigade. The Sikh terrorist organization, Babar Khalusa, that has been responsible for the death of Canadian citizens was only listed in June of 2003. Even today one of the most deadly terrorist group in the world, the Liberation Tigers of Tamil Eelam, has not been listed.

Two months after 9/11 the Government passed a new Immigration and Refugee Act that made it even easier for people claiming to be refugees to enter Canada. The legislation contained provisions that made it more difficult to remove those found not to be refugees. Any person arriving in Canada who claims to
be in need of asylum is admitted despite the fact that the majority of these people arrive without
documents, having been smuggled into the country by international criminal gangs. None of them has
been screened for security or criminal activities.

The numbers are significant – approximately thirty to forty thousand asylum seekers enter Canada each
year. Few if any of these people are detained even when their identity is unknown. They are released and
asked to appear before a refugee hearing that may not be scheduled for another 18 months or so. There is
no tracking system so they are free to move about anywhere in Canada. Over 25% of them never bother to
show up for their refugee hearing.

Many thousands of these so-called asylum seekers come from terrorist producing countries but despite not
knowing their identity they are turned loose. One of them, the infamous Ahmed Ressan was apprehended
after crossing into Washington State from British Columbia with his car trunk loaded with explosives to
blow up the Los Angeles airport. US security authorities regard Canada’s practice of seldom detaining
young men from terrorist producing countries who enter without documents and whose identity is
unknown, as incomprehensible.

When in January 2003 the United States began to register Pakistani citizens in the United States on
temporary status, many hundreds crossed into Canada claiming to be refugees. In the first quarter of this
year over 2,600 citizens of Pakistan have sought asylum in Canada. As a comparison, the second largest
group of asylum seekers during this period was 600 Mexican citizens. As the Americans begin to register
other groups it is expected large numbers of these will also enter Canada claiming to be refugees. They
will all be allowed to enter.

The United States looks upon Canada’s generous asylum system as a major security concern but there is
no indication Canada shares this opinion. The Americans know that as long as Canada’s asylum system
remains unchanged everything done under the terms of the highly touted Smart Border plan is
undermined and rendered meaningless.

In October 2002 the Canadian Government introduced Regulations before the House of Commons
Immigration Committee that would allow anyone in the United States charged or convicted of a crime
punishable by death to enter Canada if they asked for entry at the border. This gesture of Canadian moral
superiority was interpreted by many in the United States as offering a welcome mat to any terrorist
fleeing American justice. The timing of this measure just one year after the 9/11 tragedy must appear to
many of our American neighbors as clumsy and provocative.

When the United States began to require some visitors to the United States who were born in terrorist
producing countries to be photographed and fingerprinted regardless of their citizenship there was an
outcry by a number of Canadian Parliamentarians and the media. The Canadian Minister of Foreign
Affairs went so far as to issue a “travel advisory” telling Canadians born in the countries on the American
list to “consider carefully” before travelling to the United States. There was little or no understanding why
the United States might consider this requirement a prudent security measure.

Sadly it would seem the dreadful events that took place on 9/11 did not draw Canada and the United
States closer together as might have been expected when a good neighbor suffers a major catastrophe. On
the contrary Canada/US relations have not been at such a low point since the end of the Civil War.

The failure of Canada to support the United States in the war against Iraq has been an added and critical
irritant. It is not only the United States Government that is disappointed at Canada’s behavior since 9/11
but the American people and more particularly the media have expressed surprise and alarm at the
Canadian reaction. All of the major US television networks have featured stories expressing concern about the northern border and Canada’s seeming reluctance to take security issues seriously.

The failure of Canada to reform its immigration and refugee system in the face of a terrorist threat has been a major contributing factor to the cooling of the relationship. Unless this is changed cooperation along the border will be eroded. Notwithstanding any Smart Border Declaration it is likely the Americans will continue to unilaterally strengthen the border and take any measures they consider necessary to prevent a potential terrorist strike originating from Canada. The choice is Canada’s to make – either get serious about security – or suffer the economic consequences.

THE MEXICAN BORDER

The southern border of the United States with Mexico presents a much different problem for the Americans than does its northern border with Canada. The issue with Mexico has less to do with 9/11 than it does with the long-standing problem of the thousands of illegal Mexicans who cross the border illegally as “wet backs” searching for work and a higher standard of living in the USA. Related to this problem has been the pre-9/11 tendency for politicians in the United States to close their eyes to this illegal movement.

Nothing demonstrates the ambivalence of US policy towards enforcement of immigration laws, as does the issue of illegal immigration from Mexico. There are powerful US economic interests that rely on cheap Mexican labor to do the backbreaking jobs that Americans will not do. There are also politicians who rely on the Hispanic vote to get re-elected. On the other hand there is a growing realization that demographic pressure from Mexico has the possibility of regaining, in a de facto manner, the territories lost to the United States in the nineteenth century. Already in those states bordering on Mexico, the demographic, linguistic and culture is rapidly becoming predominately Mexican.

Repeated efforts by the United States to seal off the Mexican border and stem the flow of illegal entrants have been futile. The effort to apply sanctions to US employers who employed illegal workers was thwarted when Congress refused to include an alien identification system in the proposal, thus rendering sanctions inoperable. President Clinton’s operation “Gate Keeper” in 1993 that constructed a fence as a physical barrier, sixteen miles inland from San Diego, proved also to be ineffective since the illegal immigrants simply crossed the border further eastward.

The most serious effort to resolve the border problem was undertaken in 1990 by the so-called Jordan Commission of Congress. This Commission conducted an exhaustive examination of US immigration policy, focusing on the Mexican border problem. The Commission found, among other things, that legal and illegal immigration could not be separated – because they were one and the same. Forty one percent of the illegal immigrants in the United States were people who entered legally but stayed on after their legal status expired. The remainder had entered illegally. But eventually, all had their status regularized by one amnesty or another. In other words, once someone entered the United States the chances were good they would end up as legal residents.

The solution recommended by the Commission was the prohibition of employment to people in the United States under temporary status [with some exceptions for highly qualified labor]. This recommendation was based on research showing that if people are not permitted to work in a country, they will not enter it - or if they do enter, they will not stay. Studies showed that people do not enter another country illegally simply to collect welfare benefits. A further recommendation called for the establishment of an entry and exit control system for all visitors. True to form the recommendations of the Jordan Commission were scuttled by the immigration lobby in Congress and came to naught.
If United States policy towards the Mexican border has been indecisive and uncertain; this is not true of the Mexican Government’s border policy with the United States. Mexico has always taken the position that the problem of Mexicans crossing the border illegally is for the United States to resolve and to do so without help from Mexico. Mexico has traditionally refused to cooperate in curtailing the illegal flow.

Mexicans who enter the United States illegally are looked upon favorably by the Mexican Government. Their remittance back to Mexico is estimated to be more than 10 billion dollars annually. As well, they act as a safety valve, sparing the Mexican Government from the potential unrest that an additional several million unemployed workers would present.

Mexican Consulates in the United States issue identity cards to illegal Mexicans that enable them to obtain driver’s licenses and other essential documents to remain in the United States. There is a special police force in Mexico whose task is to protect Mexicans on their sometimes-perilous journey to enter the United States illegally. Although not admitted publicly, Mexico does everything in its power to facilitate this flow. President Vincente Fox has championed the call for the dissolution of borders in North America and has predicted that the borders will have disappeared by the year 2005.

Underlying Mexico’s encouragement of illegal immigration into the United States is the feeling – held by many Mexicans and supported by polling of focus groups in Mexico – that the border is a barrier preventing them from entering territory seized from them by force. Many Mexicans believe they should have the right to enter the Southwestern United States without permission.

Mexico’s attitude toward their northern border contrasts sharply with their own policy on the southern border with Guatemala. There the border is militarized and every means is used to prevent illegal entrants into Mexico. Some Mexican officials have admitted that they do not want Central Americans competing with their own people in entering the United States illegally.

The events of 9/11 have given fresh impetus to those in the United States who would like to see illegal immigration from Mexico halted. There are indications the new Homeland Security agency is now cracking down on illegal Mexicans in the same fashion as is being done with other illegal entrants. It is too early to determine if this trend will continue but the security of American borders is the number one priority of the present US administration.

Canada and Mexico would do well to recognize this. Since both countries refused to support the war against Iraq they have some catching up to do. Canada and Mexico do not share a common border but they do share a common interest in dealing with a post 9/11 United States. Deputy Prime Minister, John Manley has met with the Mexican Minister of the Interior to discuss border issues and exchange information. Nevertheless, so far the Americans have made it clear they wish to deal with each country in relation to borders on a bilateral – not a trilateral – basis. This is unlikely to change.

WHAT CAN BE DONE?

The President of Mexico’s call for a North American customs union and dissolution of borders is likely to be a non-starter. Until such time as Mexico enjoys a comparable standard of living with the United States and Canada, the free movement of people across the three borders is highly unlikely to come about. It would result in a flood of Mexicans crossing into the United States with serious long-term consequences for continued US sovereignty in California and the South Western region. The unrestricted movement across the US/Mexican border is not going to happen in the short term if indeed it will ever happen at all.
What is more likely is a more determined effort by US authorities to strengthen controls along the border with Mexico and to step up pressure on Mexico to cooperate in stemming the flow of illegal entrants. Nevertheless, there are a number of US commentators who believe this will not happen – they argue that already there is too much political influence among Latino voters in the South Western states to allow any US government to get tough along the border. If these commentators are right then the status quo will prevail. Only time will tell.

The Canada/US border is quite a different situation. The two countries enjoy a comparable standard of living and therefore a customs union and free movement of people across the two borders would not have the same consequences as it would with Mexico and the United States. So far there has not been a suggestion of free movement of people between Canada and the United States. However, a customs union and a jointly managed “perimeter shield” around the two countries has been advocated as a natural and logical evolutionary step from the present North America Free Trade Agreement.

The Foreign Affairs and International Trade Committee of the Canadian House of Commons has recommended such an arrangement as has the Canadian Council of Chief Executives, representing 150 of Canada’s largest corporations. The idea of a customs union and the establishment of a shared external border or “perimeter” have gained momentum in Canada among business leaders since 9/11. The closing down of the border in the hours after the terrorist attack in the United States revealed starkly to some Canadians the vulnerability of the 2 billion dollars a day trade that crosses the border each day. A customs union and shared perimeter between the two countries would alleviate fears that the border might again be shut down.

This idea, however, has not been received well by the current Canadian government. The Deputy Prime Minister, John Manley, has firmly rejected any suggestion of dismantling the border and sees such an arrangement as a threat to Canadian sovereignty. Mr. Manley has also stated that there is no interest at the highest levels of the US government for a jointly managed common border. Canada, according to the Deputy Prime Minister, prefers an incremental approach to securing a stronger economic and security relationship with United States.

Evidently there is to be no quick fix to the border issues. Yet this does not mean that Canada and the United States should remain at odds over border security. Traditionally both countries have enjoyed excellent cooperation in dealing with border management. Even today on the operational level relations are first rate. Much progress has been made in the implementation of elements of the Smart Border plan and a number of other improvements are underway. But it is in the policy area where progress is lacking.

There are a number of Canadian policy issues that are at the root of American concerns about Canada’s approach to security issues following 9/11. One is the refusal or hesitancy of the Canadian Government to list as terrorist organizations groups that their own security agency has recommended to be so listed. Such a pick and choose policy when dealing with national security is unacceptable to the Americans. It is interpreted as putting party politics ahead of the national interest. From the American point of such a policy also places the United States in jeopardy. Unless this policy changes the United States will continue to believe the border with Canada must be defended.

Another policy area that will require change is Canada’s asylum system. Canada’s policy of allowing everyone who reaches Canadian territory to make an asylum claim and the reluctance to detain those whose identity is unknown is seen as a security problem for the Americans. All other asylum-receiving countries have put into place pre-screening measures to prevent human smuggling and to screen out obviously fraudulent applications. Canada has refused to do so. Clearly if Canada is to restore the confidence of the United States in the war against terrorism it will have to reform its overly generous asylum system. This is a key policy area that must be addressed.
Canada’s inability to keep track of individuals who have been ordered deported and our ineffective removal policies are also of concern to the Americans. They are aware that immigration control and enforcement is at the heart of the security problem. They are also aware that Canada has not taken any concrete steps since 9/11 to deal with this area of concern. This is purely a matter of adjusting to the new 9/11 realities. The “soft” approach to enforcement of the immigration laws is no longer satisfactory. It is no longer affordable. Canada must quickly accept this as part of the price of keeping the border with the United States open for business.

None of these policy problem areas has major or serious implications. Most of them can be changed without legislation. The asylum problem may require adjustments to the Immigration Act but the others are primarily a matter of a change in attitude, a shifting of priorities, and possibly additional funding for the tracking and removal of illegal entrants. The question is whether there is the political will to do them. The consequences of not doing them will mean continued trouble along the border.