THE NEXT-LEVEL BORDER

Advancing Technology & Expanding Trade

SUMMARY REPORT

JULY 30, 2018

PUBLIC POLICY FORUM

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ABOUT PPF

Good Policy. Better Canada. The Public Policy Forum builds bridges among diverse participants in the policy-making process and gives them a platform to examine issues, offer new perspectives and feed fresh ideas into critical policy discussions. We believe good policy is critical to making a better Canada — a country that's cohesive, prosperous and secure. We contribute by:

- Conducting research on critical issues
- Convening roundtables to foster honest dialogue
- Recognizing exceptional leaders

Our approach — called Inclusion to Conclusion — brings emerging and established voices to policy conversations, which informs conclusions that identify obstacles to success and pathways forward. PPF is an independent, non-partisan charity whose members are a diverse group of private, public and non-profit organizations.

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BEYOND PRECLEARANCE

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INTRODUCTION

The Public Policy Forum convened two half-day roundtables in June 2018 to gather a range of perspectives on some of the key issues to be addressed as Canada looks at how it can enhance the U.S.-Canada border in light of technological developments and the pressure to facilitate trade as a key element of economic growth.

These roundtables are part of a larger bi-national Beyond Preclearance Coalition-led project on the U.S.-Canada border the result of which will be a forward-thinking white paper that is to be presented at a conference in the autumn of 2018.

The first roundtable took place in Ottawa on June 12, 2018. Participants discussed opportunities for and challenges to improving border policies raised by the evolution and sophistication of technology, with particular consideration given to designing an agile border to generate economic advantage while maintaining privacy and security. The second roundtable was held in Toronto on June 18, 2018, and focused on the challenges and prospects for border policy raised by the rapidly evolving global context. Methods of streamlining the border were central to both roundtable discussions.

This report is a summary of the discussions at both roundtables. The first section, *Making Technology Work for Border Policy,* details the results of the first roundtable. The second section, *Advancing Global Movement & Trade*, focuses on the second roundtable. Since all present agreed to participate under the Chatham House Rule, arguments and perspectives are not attributed. A list of participants at both roundtables is attached as Annex A.

MAKING TECHNOLOGY WORK FOR BORDER POLICY

The focus of the first roundtable was the opportunities and risks around how technology can better streamline the U.S.-Canada border for the movement of both people and goods. Key to ensuring Canada is able to decrease wait times for people and goods, while maintaining security and privacy, is identifying required processes, partnerships and models. The coordinated threat-risk security approach by the Five Eyes[1] and other Western governments in response to 9/11 has, since implementation, successfully ensured no major glitches at the U.S.-Canada border. Thanks to technology, officers of U.S. Customs and Border Protection (CBP) and the Canada Border Services Agency (CBSA) are more confident in the decisions they make today in granting passage to low-risk travellers and cargo. However, the confidence-building technology tools put in place to secure the border have led to the increased data sharing of sensitive electronic data, which in turn has raised privacy concerns. In continuing to build analytics capability, it is essential to identify what and how much personal data is required to make informed decisions. Technology advancements, including digital identity, are here to stay and, as such, it is imperative to consider the best formulas to move innovation forward, while minimizing possible negative repercussions.

Evaluation mechanisms, or targeted metrics to measure both successes and failures, which have been lacking in previous border policies such as the Beyond the Border Action Plan, need to be included in policy moving forward. The absence of metrics makes it impossible to assess whether investments have been worthwhile and policies successful. If thinning the border is, for example, the government's goal, a clear definition and metrics are required to adequately monitor and review progress. Additionally, efforts to enhance border technology also require the evaluation of legacy systems. Nexus was the prime example discussed; a legacy system some would call obsolete because, thanks to technology, CBSA now has the capability to gather and analyze more data than Nexus currently stores. The challenge for government is deciding when and how to move away from legacy systems, then taking a collaborative approach to fully embrace technology in an effort to ease movement.

COORDINATING WITH THE U.S.

Historically, the U.S. and Canada have been able to come together and work in tandem around the border; implementing similar policies to enable faster crossings while ensuring greater security. For example, coordinating post 9/11 led to the Trusted Traveler Program and Nexus, both aimed at keeping the border open during times of crisis. However, it is important to note that decision-making in each country does function with specific imperatives and processes. As it stands, for various reasons, Canada is currently

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[1] Hanna, J. 2018. What is the Five Eyes intelligence pact? *CNN.*

playing catch-up to the U.S. on the roll-out of biometrics, even after Canada was first to pilot the technology.[2] The U.S. has taken the more rapid route to implementing the latest technology at the border, thanks largely to Congress' more robust border dialogue, which is due predominantly to the southern border with Mexico. The U.S.-Mexico border also drives that government's security-conscious approach; whereas Canada is more apt to let trade guide its border discourse and decision-making. The U.S. congressional system also makes it easier for government departments to work with companies to fulfill congressional orders, which can explain the rapid six-month roll-out of biometric technology at U.S. airports.

Ultimately, a coordinated approach at the U.S.-Canada border will lead to greater safety and efficiency. In Canada, we also have to ensure our approach is economical. It is important to recognize that synchronizing approaches does not mean both sides of the border need to be identical. While system interoperability does improve processes, information security measures are required to protect both Canadian citizens and business interests. It is crucial for both countries to develop a common approach to border management methodology, which will ensure efficient information sharing and co-ordination. On the trade side, coordinated technology, processes and policies will allow CBP and CBSA to better trust the cargo moving across the border (particularly cargo arriving from overseas to be transported across North America).

However, greater information sharing also leads to privacy concerns. In sharing data with the U.S., there must be assurances in place to guarantee Canadian companies are not penalized. Determining how each country views privacy at the border will be essential to co-ordinating strategies on data sharing. It was noted that this effort may require a facilitated process. Additionally, investigating with an aim to leveraging how other governments have managed their differences to determine solutions should provide some possible approaches to consider. One particular example suggested is to investigate the CPB and the Mexican Tax Administration Service's Unified Cargo Processing approach.

MITIGATING PRIVACY CONCERNS

Finding a way to maximize the use of technology and converge processes, while also safeguarding privacy, will ultimately determine the best solutions for a seamless border. Restrictions and potential liabilities around the use of personal data are a primary reason why available technology is not currently being maximized on the Canadian side of the border. Trust around how personal data is stored and who has access is of primary concern to travellers and has become the most significant factor driving the politics of privacy. Properly identifying exactly who requires what information (and how much) to make dynamic risk assessments is crucial to determining policy around technology in order to fully leverage technological capabilities and to facilitate travel. The risk-based approach, aimed at improving seamlessness, requires the use of technology capable of effectively storing and aggregating historical data, which should mean less questioning by officers at the border. On the trade

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[2] YVR. 2014. YVR Introduces Next Generation Automated Passport Control Kiosks with Integrated Biometric Technology.

side, border officials are keenly concerned with whether they can trust the contents of each cross-border shipment, which is where data sharing and corporate privacy issues arise. Crucial to the privacy discussion is the need for a distinction between privacy security and data governance.

In terms of moving travellers, there is a genuine need for data to identify who among those crossing the border is a security concern; to distinguish the asylum seekers, the terrorists and criminals. Canada is a desirable location for illegal immigration and outlining a proactive response to potential future mass migration brought on, for example, by climate change identifies a pressing need for the government to talk about how it uses personal data at the border. This need for public accountability stems from the general population's concern over sharing personal data. A national public policy on data is required so everyone better understands why personal data is gathered, who has access to it, and how it is being used and secured. Increased government transparency will likely affect the way the population, particularly older generations, feels about personal data gathering and why certain solutions, such as facial recognition, make people nervous, while providing airline carriers personal data seems to cause little concern. The security intelligence community has an opportunity to create a balance between security and privacy and win over the public by choosing to eliminate social distrust through improved communication. With the community on board, it will be much easier for government to find innovative solutions posed by the need to anchor identity and digitize travel documentation, both of which should also mitigate the ongoing problem of corrupted documentation[3].

Technology is, for the most part, not built with privacy in mind. To reduce problems such as data loss, privacy mechanisms need to be built into technology from the beginning. Privacy Impact Assessments (PIAs) are another required piece; identifying where and to whom information flows while providing concrete steps required to mitigate risk. According to privacy experts, PIAs should be done at the request-for-proposal stage — any time after this stage of the process is seen as a Band-Aid solution. In building technology solutions, with privacy top of mind, ethnography should also be considered, as should the general affect any technology may have on the traveller.

BUILDING PARTNERSHIPS BETWEEN GOVERNMENT, BUSINESS & ACADEMIA

Building partnerships between government, the private sector and academia is a requirement for border technology acceleration. The U.S. government, for example, has been proactively working with both business and academia on matters related to border technology. The U.S. has engaged academic institutions across the country with the aim of instituting a growing number of Centers of Excellence (COEs). The Department of Homeland Security alone has nine COEs, which include the Borders, Trade & Immigration (BTI) Institute at the University of Houston and the National Transportation Security Center of

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[3] Todd, Douglas. 2018. Canadian officials battle dozens of migration scams. *Vancouver Sun.*

Excellence, the collaborative effort of seven universities. On the corporate side, Homeland Security's focus on innovation through its Science and Technology Directorate has led to the creation of the Silicon Valley Innovation Program, which provides corporate innovators the chance to pitch their tech solutions to government. NATO's Innovation Hub is another example of a collaborative approach to building tech solutions for security and defence.

In Canada, while possibilities for improvement using innovative solutions exist, there is also historical proof that implementing large-scale IT solutions tends to be a lengthy process. Agreement among roundtable participants was universal: the Government of Canada needs to build partnerships with both universities and the private sector to rapidly move technology innovation forward at the border. These development partnerships should ensure innovation continues to happen outside of budget cycles and without the restrictions of the government's traditional procurement process. Essential to rapidly building bridges between government and private sector around border innovation is identifying the programs and initiatives currently in place. One current Government of Canada initiative, the Department of National Defence's call for innovative solutions through its Innovation for Defence Excellence and Security (IDEaS) program, was identified as a method CBSA could use to engage industry. Another possible initiative, the Canadian Safety and Security Program, led by Defence Research and Development Canada's Centre for Security Science and Public Safety Canada, could also provide innovative solutions for the border.

Opportunities exist to bring together government and the high-tech sector to build solutions for the border; this would likely be of particular interest to those companies working along the innovation corridor stretching from British Columbia to Washington State. Technology companies such as Amazon and Microsoft are expanding their presence in Canada and are keen to work with the government. There is an identified need for private-sector assistance so that government can further investigate, for example, the possibility of:

- Using passports to segment travellers;

- Moving forward processes around digital travel credentials, programmable into smart phones; and

- Building a digital identification system, similar to the Netherlands DigiD.

Connecting with companies and associations already engaged in piloting initiatives to streamline the border should be a government priority. When the private sector is keen to discover and finance solutions, government insight means better coordinated efforts. For example, the North American Strategy for Competitiveness is working on a pilot for an autonomous vehicle conveyor belt, which would remove the challenge to border officers of vetting truck drivers.[4]

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[4] Nasco. Supply Chain Council.

If the development of Canadian centres of excellence is to be considered, instead of starting from scratch it will be important to identify those Canadian universities currently placing a research emphasis on borders. For example, the Social Science and Humanities Research Council of Canada's Borders in Globalization project involves 10 Canadian universities[5], all of which have engaged in border-focused research.

WORKFORCE TRANSITION

Just as in other sectors, the changing nature of work and the technology evolution have impacted human capital at the border. It was indicated that CBSA should be trying to shed 15 to 20 percent of its workforce over the next five to seven years — a reality as jobs become digitized. The benefit of technology will obviously be derived through increased speed and security, but also through decreasing the cost of human capital, particularly in a government department like CBSA where overtime costs are high. Transparency will be important to maintaining staff contentment and general success while implementing change. Making this transition requires an evaluation of methodologies that other government departments have enacted to best manage the required changes. For example, when Immigration, Refugees and Citizenship Canada was looking to change the process for granting visas, Employment and Social Development Canada was consulted as it had recently implemented changes to the Canada Pension Plan and Old Age Security. Including unions in the transition process is also key, particularly as many unions are already re-imagining the future of work. An overarching challenge in this regard is how to keep certain jobs interesting as technology has automated many of the "smart jobs".

Digitizing current processes is not always the best way forward, which is why government often seeks the input of outside expertise. One of the problems identified with government contracting of private-sector assistance is that once a project is over there has been an ongoing challenge with maintaining the knowledge exchange and ensuring system support. The implementation of the CBSA Assessment and Revenue Management project (CARM) is an example where dedicated experts were contracted, yet once their contracts were finished no resources with specific experience remained to assist in advancing CARM or handle any emerging problems. Working with private-sector tech experts regularly — not only to manage the roll-out of IT solutions but to continue to manage the back end afterwards — will allow for greater advancement and fewer challenges.

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[5] Trent University, University of Victoria, University of Regina, University of Lethbridge, Université de Sherbrooke, Carleton University, Royal Military College, École nationale d'administration publique, Wilfrid Laurier University, and Université du Québec à Montréal.

ADVANCING GLOBAL MOVEMENT & TRADE

The second roundtable considered the ways Canada can manage the risk of its international border points to ensure that technological advances support the movement of goods, services and people to increase Canada's competitive advantage in global trade while ensuring the security of our borders. Expediting the global movement of goods without sacrificing security is a key challenge for Canada, an open economy with a heavy dependence on trade. New approaches to trade facilitation are demanded. Moreover, as with national economies, international trade is increasingly moving toward services involving a greater emphasis on the movement of talent. The expedited movement of people across Canada's borders is important to both tourism and other service industries, but it must be done in a way that does not have a negative impact on Canada's security. As a G7 nation, Canada has the opportunity to serve as more of an international hub for trade in goods and services, so long as we don't throw roadblocks in the way. In today's truly global world, international co-operation, including with partners other than the U.S., is crucial in taking these issues forward successfully.

PARTNERSHIP RELATIONSHIP

When it comes to Canada-U.S. trade, the partnership relationship is a strategic one for both countries. At times, including currently, it can be challenging to glean the true dynamics of the relationship — where is the balance of power? Is Canada an equal partner? Perhaps a junior partner? Regardless of the rhetoric at the political and trade levels, there remains a close working relationship between the Canada-U.S. border and intelligence agencies.

In addition to the partnership relationship between different levels of Canada-U.S. government, Canada also needs to improve its relationship with industry in determining outcomes, sharing data to accurately measure progress and ultimately to develop solutions. In January 2017, the Canadian Automobile Association released a study authored by the management consulting firm CPCS identifying the worst vehicular traffic bottlenecks in Canada. Five of the top 10 bottlenecks are in Toronto and a contributing factor to the congestion is empty transport trucks moving along Highway 401 for goods destined within Canada or across the border. This is one example of a problem requiring multiple stakeholders to contribute to finding a solution.

MODERNIZING BORDER POLICY

While the current political climate between Canada and the U.S. on trade is challenging, there is belief that short- and long-term progress can still be made in advancing border policy. Modernization within CBSA, for

example, would provide short- and long-term relief to pain points in current border policy and practices. Overall, it is felt CBSA lags behind the U.S. and has some catch-up work to do, especially when it comes to piloting and implementing new technology. There is a perception that CBSA has an approach of wanting to develop unique border technology, clearance and border processing, instead of working together with CBP to harmonize approaches. The more differences between Canadian and U.S. processes, the greater the costs for all parties. One of the examples provided during the roundtable was CBP's testing of licence plate readers to expedite the clearance of trucks at the border. At this time, CBSA is not planning to test or utilize the plate reader technology. Another example provided was the outdated nature of the e-manifest system used by freight forwarders, as the system in still largely paper-based with stamps required on multiple document copies. The technical aspect of how policy is implemented also requires responsive feedback loops between public and private partners.

A series of policy changes that would provide relief to cross-border trade processes includes improving qualifications for trusted trader status, harmonization of policy for empty trucks and policies addressing the interoperability of computer systems and software facilitating supply chain movements at the border. Some of these policy changes can be made in the short term, while others need pilots that take into account the requirements of other government departments beyond CBSA and CBP involved in the movement of goods and talent. In Canada, that includes Transport Canada, Global Affairs, Crown corporations, provincial government departments, as well as municipal governments, in many cases.

Participants expressed a desire for CBSA to adopt more of a "can-do" approach in modernizing border policies and processes. In some respects, CBSA has been able to make significant leaps in advancing border policy, such as implementing customs kiosks in Canadian airports, and the modernization of the Nexus program currently underway. A can-do attitude coupled with initiatives that are market driven will bring focus for government and industry collaborators.

THE EVOLUTION OF FACTORS: IMPACTING CROSS-BORDER TRADE

Cross-border trade is ever evolving and there are new issues requiring further analysis and consultation to explore their impact on the border. An example is Canada's legalization of recreational cannabis, where there are many elements still requiring clarification. Regarding passenger traffic there has been some talk of challenges for single-vehicle border crossings, but more robust consideration is required for group transportation, whether it be buses, planes, etc., and the impacts on cross-border travellers, cargo and trade. Another example is the evolving data requirements, which are impacting cross-border trade as countries set their own requirements for the data they collect. These trends are raising concerns about the type of data being gathered and how this thickens borders. Other examples noted by participants included China's new requirements for the tax number and business number of both the carrier and signatory of all goods coming

into the country, the U.S. requirement for preload data on all in-coming air cargo, and Transport Canada's requirement for known account consigners on all air cargo coming into the country.

The increasing movement of talent to support cross-border business is being impacted by directives set by the U.S. administration, including the U.S. travel ban and "Buy and Hire American". While short-term effects have been seen, ongoing and longer-term impacts are still the subject of speculation. The implementation of these policies has been largely without consultation with Canada, putting stresses on talent mobility and the ability to carry on business as well as causing general reluctance and uncertainty on the part of individuals and companies to take on the risk of cross-border travel. While Canada and other countries are left to adapt to and accommodate the impacts of these directives, the case was made for Canada to double down on increasing improvements and efficiencies in moving people quickly across borders through various modes. For example, one company flies its staff between its Seattle and Vancouver offices by seaplane because of the speed of the service and a customs agent being at the dock upon their arrival. At this time, it is a faster air travel option than travelling through the major airports in both cities, even though Vancouver is one of the Canadian airports leading in efficiency improvements. At the same time, Canada has a real opportunity to leverage its proximity to the U.S. and be a place where companies can set up offices attracting and retaining highly skilled talent.

THE KEY ROLE OF SMES IN THE CANADIAN ECONOMY

Border policies reflect the relationship between a country and its partners, and signal internally and externally its views on openness to trade. In Canada, that means being inclusive of large Canadian companies and multi-national enterprises as well as the significant number of small and medium-sized enterprises (SMEs). The roundtable discussion included reference to the need for ongoing consideration, consultation and inclusion of SMEs in Canada as a significant stakeholder group involved in and impacted by cross-border trade. Some of the existing deterrents and barriers for Canadian SMEs include the de minimis threshold — the value below which international shipments are exempt from customs processes, duties and taxes. Canada has one of the lowest de minimis thresholds in the world at CAD$20, which creates challenges for small Canadian sellers because if the item they sell gets returned, the seller incurs the de minimis fees. While the roundtable discussion focused on trade across international borders, the challenge and barriers created by inter-provincial trade policies were also raised. Internal trade policies can add enough cost and complexity to result in some Canadian SMEs choosing not to engage in cross-border international trade on the grounds of real and perceived additional challenges and stresses. As Canada looks to grow and diversify its trading partners and relationships, it is critical that Canadian small and medium-sized enterprises are included and reflected in cross-border and internal trade policies.

THE NEED FOR HARMONIZATION AND THE CHALLENGE OF DIMINISHING SOVEREIGNTY

The counter argument and consideration for growth and diversification of cross-border trade are the real and perceived impacts on Canadian sovereignty. There exists a conflicting tension between the harmonization and alignment of Canada-U.S. trade and border policies, while ensuring Canadian sovereignty is reflected and protected within these policies and practices. Although it is the smaller market and population, Canada is not bound to relinquish its sovereignty for gains in trade. A balance does need to be struck in finding harmonization to enhance trade and security while maintaining Canadian autonomy. In reality, this will mean that sometimes Canada will be following and harmonizing to U.S. policy or that of another country, and other times it will mean Canada can be a pragmatic contributor, taking different approaches to ensure progress is made. Some suggested that the starting point should be "we adopt the U.S. approach unless there are good reasons not to."

CANADA'S BORDER STRATEGY

To ensure progress continues to be made, Canada needs a comprehensive border strategy. What we heard is the need to knit together all of the various initiatives and approaches into a strategy and then an actionable and measurable plan. As Canada seeks to diversify its trading partners around the world, a Canadian border strategy becomes increasingly important and, at the same time, our relationship with the U.S. is ever present. A key element of the strategy may be Canada positioning itself as a global hub for trade within the North American market. Under the previous U.S. administration, there was talk of developing a single North American market strategy. Regardless of whether this comes to the fore again, a strategy needs to be determined and progress measured and evaluated. It is also important to align border strategy with broader trade policy — facilitating trade through free trade agreements needs border policy to play a part in making the agreements work for business.

New Zealand's border strategy was highlighted as an example. Although Canada and the U.S. are not starting from the same point as Australia and New Zealand, there are lessons to be learned from the New Zealand-Australia trade relationship and policies. New Zealand and Australia share the ideal of a "single economic market" from which other policies flow, such as tariff-free access for all goods and the free movement of people. New Zealand is pragmatic in its relationship with Australia, recognizing it is the smaller market player, and in some cases it has adopted harmonization, as in the case of food standards, where there is a single body (dominated by Australian states and territories) that covers both countries.

Canada has a real opportunity at this time to determine its border strategy, as economics and politics are impacting the movement of goods, services and people, the location of companies and the thickness of borders, between long-standing and new trading partners.

ANNEX A: ROUNDTABLE PARTICIPANTS

ROUNDTABLE 1: OTTAWA

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