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INTERNATIONAL MIGRATION AND HOMELAND SECURITY: COORDINATION AND COLLABORATION IN NORTH AMERICA

Christopher Rudolph*

“There is probably no more important policy in preventing attacks on American soil than the nation’s immigration system ... because the current terrorist threat comes almost exclusively from terrorists who arrive from abroad.”¹

—Steven Camarota, Center for Immigration Studies

“In many ways, the age of unilateralism in border controls may be over.”²

—Demetrios G. Papademetriou, Migration Policy Institute

I. MIGRATION AND HOMELAND SECURITY: THE “NEW” THREAT

THE events of September 11, 2001, reintroduced a term to the American lexicon not widely heard since the “red scare” of 1950s McCarthyism: homeland security. Moreover, the fact that the 9/11 terrorists manipulated U.S. immigration laws in order to infiltrate the country and to carry out their attack on U.S. soil made the link between global terrorism and international migration explicitly clear.³ In terms of the migration-terrorism link, the key questions facing policy makers were, “How did we get so vulnerable?” and “What can we do to protect ourselves from global terrorism?”

Increasingly, policy makers, pundits, and the general public recognize that migration is an international phenomenon, one that both facilitates

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3. Camarota.
processes of globalization and interdependence and is affected by them.4 Although immigration and border control have long been central to our notions of sovereignty,5 dynamics of contemporary international migration suggest that it is difficult, if not impossible, to achieve complete control over flows unilaterally.6 Prior to 9/11, scholarly discussions regarding the need for a multilateral regime focused on addressing the need to facilitate flows for economic need, and/or reducing illegal immigration.7 Although dialogue regarding migration regimes has been most rigorous in the European Union, strong interests exist among North American countries to craft policy in the EU mold. For the United States and Canada, the information technology revolution created significant demand for highly skilled labor, and certain sectors of the economy have shown a "structural embeddedness" of demand for unskilled foreign labor as well.8 For Mexico (and other developing countries like it), emigration not only offers a safety valve for unemployment pressures, but also represents a significant source of needed foreign exchange—some $14 billion


annually.\textsuperscript{9}

With the emergence of the homeland security linkage and the threat of global terrorism, discourse regarding the need for cooperation and coordination has again sustained momentum.\textsuperscript{10} Given the clear tension between strong economic interests for policy openness and strong security interests favoring closure, we have seen policy makers increasingly argue that the only solution is to craft "smart borders": those that have an unprecedented ability to filter out terrorists, criminals, and other undesirables while enabling cross border flows to remain relatively unhindered. Former U.S. Secretary of Homeland Security, Tom Ridge, made this point clear: "We're working with Canada and Mexico to institute smart borders that will keep terrorists out, while letting the flow of commerce in."\textsuperscript{11}

Given the traditional view of immigration and border patrol as the sole prerogative of domestic public policy, such pronouncements represent not only a radical departure from traditional views about immigration, but also on the nature of sovereignty and the role of borders in international society. Significant advances in information technology certainly provide us with the tools necessary to facilitate a "smarter" border,\textsuperscript{12} but having an increased ability to cooperate does not necessarily mean that states will cooperate. In this paper, I seek to address two primary questions: 1) Where is cooperation and/or coordination likely, and what challenges do we face in facilitating such endeavors, and 2) What are the prospects for a regional migration control regime—a north American security perimeter?

II. REGIME FORMATION

In a world increasingly marked by both globalization and complex interdependence, states find their options strongly shaped by the interest calculus and decisions by other states.\textsuperscript{13} Indeed, much of the recent discourse concerning both international migration and global terrorism highlight the fact that these forces are shaped by myriad forces in world politics, making them seemingly applicable to issues of regime formation.
in order to better control outcomes. What factors determine whether or not a regime—such as a North American security perimeter—is created, and what determines the form it will take? I draw on regime theory from the international relations literature to provide a theoretical framework for my analysis. There are three primary schools of thought concerning regime formation: realism, neoliberal institutionalism, and cognitivism (i.e., constructivism).14

For realists, "the distribution of capabilities among actors critically affects both the prospects for effective regimes to emerge and persist in an issue area and the nature of the regimes that result. . . ."15 In other words, power is the essential explanatory variable, and regimes are established only when they reflect the self-interest of the most powerful states.16 In the North American context, this would then place the United States and its perception of national interest as the driving force of regime formation. Within the realist paradigm, any North American security regime would necessarily be based on American interests and how political suasion may subsequently affect the interest calculus of its neighbors to the north and south. Rather than being the product of common interests or a multilaterally negotiated settlement, realists would predict that a North American perimeter would be characterized as an "imposed regime."17 Moreover, in terms of duration of such a regime, realists would expect it to function in its original form only so long as it reflects the interests of the dominant state in the constellation of power at the point of implementation. In other words, the regime will exist only so long as it conforms to American self-interest.

Where power is the primary variable forwarded by realists, neoliberal institutionalists argue that it is in fact the constellation of interests rather than the constellation of power that is essential in understanding regime formation.18 Arthur Stein suggests that international regimes are created

to manage dilemmas of common interests and common aversions in an anarchic world.\textsuperscript{19} Dilemmas of common interests arise when unconstrained individual decision-making among actors (states) would result in Pareto-deficient outcomes. Attainment of the common good is dependent on interstate collaboration that protects against the likelihood that one state defects from its commitments. To remedy this, regimes are established that constrain individual decision making in order to achieve the desired Pareto-optimal outcome.

In contrast, dilemmas of common aversions arise not from a common desire for a specific outcome, but a common aversion to one possibility. Such dilemmas do not require ceding such a high degree of sovereignty in the creation of a regime, since they are not intended to produce a specific outcome—simply to avoid an undesirable one. Such regimes also generally do not require such a high degree of formalization as those necessary in dealing with dilemmas of common interest. As such, Stein suggests that these would generally not be described as a formal regime.

To utilize such a framework within the context of a North American security perimeter requires that we identify the constellation of interests among participants. Is the issue of migration and security one of common interests or common aversions? The answer to this lies in the perceptions of representative policy makers involved and requires close scrutiny of policy makers' statements in how they frame the issue of a security perimeter and what they define as the preferred objective. If each sees the identification and apprehension of terrorists as the primary objective, we may have a dilemma of common interest and could anticipate movement toward a formal regime wherein participants would necessarily cede some independent policy making sovereignty. On the other hand, if participants simply seek to avoid another major terrorist event in North America, they may not necessarily have the same desired policy outcome. Instead, they simply want to avoid one possible (undesirable) outcome. If this is the case, we could anticipate that movement toward some kind of regional regime would be less formal and would not be characterized by moves to surrender high levels of independent sovereignty over policy nor would we likely see deep harmonization of policy (i.e., common immigration and refugee policies among NAFTA countries).

Clearly, the distinction between realism and neoliberal institutionalism is a fine one, for it often seems that their similarities outweigh their differences. Emphasis on the role of state power and interests in an anarchic system underlie both. Indeed, Adreas Hasenclever, Peter Mayer, and Volker Rittberger have argued that little stands in the way of a synthesized approach incorporating both realism and neoliberal institutionalism. They write, "Neoliberalism and realism not only share a
commitment to rationalism as a metatheoretical stance, but may fruitfully work together when it comes to explaining international regimes, thus offering the prospect of a more unified rationalist theory of international institutions."20 They are less optimistic about integration of constructivist approaches.

Constructivists stress the role of social knowledge in the practice of world politics.21 Where norms, ideas, and principles are seen as largely epiphenomenal to policy outcomes (such as regime formation) in both the realist and neoliberal camps, they are considered much more endogenous from the constructivist perspective. Constructivists not only suggest that structural environments are largely a social construct,22 but also that social constructs (such as identities) shape interests.23 In other words, "We have to know who we are before we can know what our interests are."24 How might this point of view help us to understand the dynamics of regime formation? There are several possibilities for the role of norms, ideas, and principles. The first involves perceptions regarding the interests and motives of other participants. Robert Jervis argues that in order for regimes to develop, participants must believe that others share their interests in regime design and targeted results.25 This perspective clearly suggests overlap with neoliberal perspectives concerning the constellation of interests as primary causal variables. On the one hand, it appears supportive of Stein's view that shared interests are pivotal in regime formation. However, when mixed with the realist perspective, it raises the question of interests in situations of "imposed regimes." Can imposed regimes establish conditions of common interest? In other words, if one nation has a preponderance of power, could economic and/or security dependence cause interests to converge? As applied in the North American context, such questions press for a more complete understanding of both individual interests (at the state level), as well as whether American leadership and/or suasion truly create a political environment of common interest if individually they are not congruent.

Another key area where ideas would seem to matter in the North American context is also closely linked to issues of power and interest.

Specifically, shared histories shape national identities in the context of relationships between peoples and states. Current challenges facing states in North America must be cast within a historical context—one that involves social sensitivities to power differentials. The United States' role as the regional hegemon creates expectations that weaker neighboring states should "fall in line" with U.S. interests. This attitude was clearly articulated during Operation Iraqi Freedom, as U.S. policy makers pressured Canadian and Mexican policy makers to pledge support for the war effort. On the other side, Canadian and Mexican policy makers are at times weary of being bullied by their stronger neighbor or are reluctant to appear as a political lackey to U.S. interests. Such power relationships have a strong effect on the national consciousness, engendering sentiments that a truly "sovereign" national identity requires at least periodic dissent against American interests. These issues come to the fore in cases where there is a disparity of interests and may significantly complicate the formation of "imposed regimes."

Lastly, and perhaps most significantly, traditional ideas about sovereignty may also have an effect on a potential regime in North America, particularly when applied to issues of migration and border control. Although neoclassical economic principles adopted in the contemporary Bretton Woods era have prompted many "trading states" to willingly cede some degree of sovereignty in terms of cross-border flows in order to obtain the economic benefits of such mobility, this has generally not been applied in the realm of international migration. Rather, control over who enters the country and who may be eligible to become part of the national polity remains a cornerstone of societal dimensions of sovereignty. As such, efforts to shift policy making beyond the confines of the nation-state have continually met strong resistance or have been unable to overcome initial political inertia whatsoever. This has been the case even in Europe, where we have witnessed the most ambitious efforts to establish such a supranational regime. Complicating the issue in the North American context is the disparity of views regarding migration and sovereignty. Whereas Canadians and Americans generally see the exten-

sion of control measures as an assertion of social/state sovereignty, Mexicans continually assert the right of individuals to migrate as a cornerstone of sovereignty—both domestically and internationally—a right explicit in the Mexican constitution.

I argue in this paper that the process of regime formation (or failure to enact a formal regime) in terms of a North American perimeter will involve the interaction of power-based, interest-based, and idea-based variables rather than begin dominated by a single causal variable. Mexican president Vicente Fox and his administration have often spoken of a desire for a comprehensive agreement on migration—indeed, Fox has repeatedly said that this was the cornerstone of Mexican foreign policy. For Mexican policy makers the objective was not an incremental or piecemeal approach, but rather (in their words), "the whole enchilada." However, when examining the interaction of the three primary variables identified here, my analysis suggests that such a "grand bargain" seems rather unlikely. Instead, we are more likely to see any regime formation take the form of bilateral rather than multilateral agreements, and these agreements will likely produce increased coordination (shallow integration, retention of policy sovereignty) rather than collaboration (deeper integration, harmonization of immigration and refugee policy).

III. INTERNATIONAL COOPERATION IN NORTH AMERICA

Recognition of regional—if not global—interdependence concerning international migration has pressed policy makers to shift political discourse from one solely rooted in a domestic perspective to one that moves beyond national borders. This does not necessarily mean that policy makers see management issues from a regional interest, but rather, that regional cooperation is necessary in order to achieve national interests. In an address to the Senate Judiciary Committee on March 4, 2003, John Ashcroft explained that "close working relationships with international allies" would allow the United States to "leverage our anti-terrorism efforts throughout the world." Ashcroft's remarks suggest that, for American policy makers, international cooperation is seen as an extension of U.S. interests and strategy. This strategy to "leverage" U.S. efforts through international cooperation has initially taken two primary forms: the "Smart Border Declaration" with Canada and the "U.S.-Mexico Border Partnership Action Plan."

A. U.S.-Canada Smart Border Action Plan

Bilateral cooperation between the United States has a long tradition, and has been described as "the most extensive bilateral relationship in the world." Tom Ridge, then-U.S. Secretary of Homeland Security, explained the desire for intergovernmental cooperation as an issue of common interests. He stated, "By working together we can better reach our common goals of ensuring the security and prosperity of our citizens." Yet, when we examine the parameters of the existing bilateral measures taken concerning migration and border control, it appears that "common interests" have not generated movement toward a formal regime. Rather, the extension of egoistic self-interest (i.e., "leveraging" domestic efforts) is the driving force being the increased cooperation that we have seen, especially since 9/11.

From the American viewpoint, cooperation with Canada is deemed increasingly important for U.S. security. First, there was concern about terrorist activity and infiltration from the North. Suspicions rose with the apprehension of Ahmed Ressam in December 1999, and these were later bolstered by a 2003 report which suggested that some fifty terrorist groups were present and active in Canada at that time. Moreover, there is a considerably wide spread belief that Canadian immigration and border policies are somewhat lax, especially those concerning refugees and asylum. From the Canadian standpoint, although the 9/11 attacks in the U.S. increased the salience of counter-terrorism as a policy imperative (from the standpoint of self-interest), expressed interests continued to focus on building a more open border. Inability to increase security along the border and allay U.S. concerns would no doubt put this goal in jeopardy. The tremendous back-ups at key points along the border in the days following 9/11 made this perfectly clear.

With mutual interest in increased cooperation, former Canadian Deputy Prime Minister John Manley and (then) Governor Tom Ridge signed the Smart Border Declaration on December 12, 2001. The declaration was accompanied by a 30-point action plan based on four pillars: 1) the secure flow of people, 2) the secure flow of goods, 3) secure infrastructure, and 4) information sharing and coordination in the enforcement of these objectives. Table 1 summarizes elements of the 30-point action plan most relevant to pillars 1, 3, and 4 of the Smart Border Declaration.

What becomes quickly evident, even with only a cursory examination of the language used within the document, is that the Smart Border Declaration advances integration of border management more so in terms of coordination rather than collaboration. Indeed, according to a 2003 progress report of the Action Plan, there has been considerable progress made in the area of coordination.

### TABLE 1: DEGREE OF HARMONIZATION WITH SELECTED ELEMENTS OF THE U.S.-CANADA SMART BORDER ACTION PLAN

<table>
<thead>
<tr>
<th>Area</th>
<th>Description</th>
<th>Coordination or Collaboration?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biometrics</td>
<td>Establish common standards for biometrics</td>
<td>Coordination</td>
</tr>
<tr>
<td>Single Alternative Inspection System</td>
<td>Expedited inspection lanes for frequent travelers</td>
<td>Coordination</td>
</tr>
<tr>
<td>Refugee and Asylum Processing</td>
<td>Share information regarding refugee/asylum applicants</td>
<td>Coordination</td>
</tr>
<tr>
<td>Refugee and Asylum Policy</td>
<td>Establishment of “safe third country” policy</td>
<td>Collaboration</td>
</tr>
<tr>
<td>Visa Policy Coordination</td>
<td>Increase cooperation in visa processing by sharing intelligence information</td>
<td>Coordination</td>
</tr>
<tr>
<td>Air Pre-clearance</td>
<td>Expansion of air pre-clearance procedures</td>
<td>Coordination</td>
</tr>
<tr>
<td>Advance Passenger Information</td>
<td>Provide passenger name records for travelers</td>
<td>Coordination</td>
</tr>
<tr>
<td>Joint Passenger Analysis Units</td>
<td>Cooperate on identifying potentially high-risk travelers</td>
<td>Coordination</td>
</tr>
<tr>
<td>Immigration Officers Overseas</td>
<td>Allow deployment of immigration officers between countries</td>
<td>Coordination</td>
</tr>
<tr>
<td>Integrated Border Enforcement Teams</td>
<td>Shared training and increased cooperation among border security and law enforcement agencies</td>
<td>Coordination</td>
</tr>
<tr>
<td>Integrated Intelligence</td>
<td>Establish Integrated National Security Enforcement Teams on a case-by-case basis</td>
<td>Coordination</td>
</tr>
<tr>
<td>Fingerprint information sharing</td>
<td>Implement electronic system for exchange of fingerprint and criminal records information</td>
<td>Coordination</td>
</tr>
</tbody>
</table>

Source: Canadian Embassy (Washington, DC)

In terms of bilateral cooperation and the creation of “smarter” borders, several examples are particularly noteworthy. The US-Canada NEXUS program represents a model example in terms of migration control. NEXUS is intended to concurrently facilitate migration flows while main-
taining protocols to increase security. The program enlists the cooperation of several agencies on both sides of the border, including the U.S. Bureau of Immigration and Customs Enforcement (ICE), the Canadian Customs and Revenue Agency (CCRA), and Citizenship and Immigration Canada (CIC). NEXUS is intended to facilitate the flow of "low risk" travelers who are pre-screened and must be approved by officials in both Canada and the United States.37 The number of designated lanes for NEXUS participants has been continually expanding, beginning with one site in June 2000 (Port Huron-Sarnia) and expanding to fifteen by the fall of 2003.38

The expansion of the Integrated Border Enforcement Teams (IBETs) also suggests progress in bilateral cooperation in border control between the United States and Canada. Initially established in 1996 along the border in the western region of Washington state to combat drug smuggling and illegal immigration, IBETs have now been expanded across the entire U.S.-Canada border. IBETs establish coordination between numerous agencies, including ICE, the Bureau of Customs and Border Protection, the FBI, ATF, U.S. Secret Service, the Royal Canadian Mounted Police (RCMP), the CCRA, and numerous local law enforcement agencies on both sides of the border. These are then managed by a Joint Management Team of senior officials drawn from participating agencies that facilitate intelligence sharing and conduct joint operations for border security. Such cooperation, especially in terms of intelligence, increases control capacities for both Canadian and American agencies. Roy Hoffman, head of the ICE office in Blaine, Washington, suggested that, "Sharing information with our Canadian counterparts allowed both sides to better determine where our efforts had to be centered and gave all of us a better chance of success."39

Such improvements in bilateral coordination have been touted as evidence that security can be established without sacrificing security by creating smarter borders. In the one-year progress report, John Manley argued that, "The speed with which we have been able to expand programs like NEXUS, FAST and our Integrated Border Enforcement Teams demonstrates our commitment to making the smart border a reality."40 As shown in Table 1, however, the level of integration in terms of the smart border remains relatively shallow, with little effort made to formally link or harmonize policy. That said, there is some progress in terms of collaboration in the areas of visa issuance and refugee/asylum policy. Informal convergence is evident in the area of visa issuance. The United States and Canada now share common visa policies with 175 countries,

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though they still differ with respects to 18 other countries. Refugee and asylum policy also reflects increased collaboration, although there seems to be a considerable difference in attitudes between Canadian and American policy makers. At issue is whether or not Canada is “soft” on refugee and asylees, and both the ideational and political obstacles to policy change in this area to conform to American desires for increased security. American policy makers need not rely solely on their own suspicions. Skepticism has also been raised by critics north of the border. For example, a Fraser Institute study suggested that, “Canada’s refugee-determination system and migration-control policies are out of step with what appears to be a clear convergence of policies and practices in the developed world.” Joe Bissett, former executive director of the Canadian Immigration Service, seconded this opinion: “We have the most generous refugee system in the world. Much too generous.”

Although harmonization of asylum policy is listed under the 30-point action plan, a closer look at the issue warrants pessimism as to the probability of increased collaboration. In terms of current policy, several dimensions of the Canadian system make it disproportionately open relative to other advanced industrial states. These include high rates of approvals, a generous social welfare system, infrequent prosecutions, and lax deportation procedures. In 2002, the refugee recognition rate (for in-country determinations) in Canada was nearly double the U.S. rate, while the per-capita acceptance rate of refugees from 2000-2002 (in-country Convention refugee recognitions) was four times the American rate. Moreover, authorities detain few refugees and asylees while their claims are pending adjudication, even though Canadian law permits detention of those applicants who might represent a possible security threat or flight risk. In fact, generally only 5 percent of refugees entering Canada are detained, while the remaining 95 percent are released until their immigration hearing is held. Moreover, in Canada there are few barriers to claimants working and accessing social entitlement programs while their claims are pending. In contrast, in the United States the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) added to existing restrictions on access to social welfare for applicants while

42. Gallagher, p. 5.
45. Peter Rekai points to several causes for this failure to retain potential “high risk” applicants. These include lack of proper intelligence necessary for to identify “high risk” applicants, lack of adequate detention facilities, and humanitarian considerations. See Peter Rekai, “U.S. and Canada Immigration Policies: Marching Together to Different Tunes,” C.D. Howe Institute Commentary 171 (Nov. 2002), p. 13.
their cases are being adjudicated by requiring that employment authorization not be authorized for a period of at least six months. Because “first instance” determination of asylum status must be processed within 180 days according to U.S. law, employment opportunities are reserved only for those who warrant an affirmative determination of their case.47 Moreover, in addition to detaining claimants pending review of their case, the United States also has an “expedited removal” system in place that facilitates detention and removal of individuals apprehended who do not have proper immigration or travel documents. In addition, out-of-status foreigners in the country for more than one year are barred from applying for asylum and are subject to deportation if apprehended.48

In contrast to its American usage, the use of the term “expedited” in the Canadian sense has been to “speed positive claims toward recognition.”49 Failure to detain applicants pending what is often a lengthy judicial review process is coupled with a de facto policy of failing to deport those who either fail to appear at their hearing or are denied refugee status. One analyst noted, “Not only does Canada permit anyone who arrives to make an asylum claim, but many of those eventually denied refugee status are never removed from the country. Only about 9,000 people are removed from Canada each year, and of these, approximately two-third[s] are failed asylum seekers.”50 According to the Auditor-General’s 2003 report, Canadian authorities have lost track of 36,000 foreigners that were supposed to be deported over the past six years.51

Canada’s refugee and asylum policies have resulted in trends that are disconcerting to some security-minded American policy makers. Certainly, Canada’s stance vis-à-vis asylum and refugees make it a first choice for those seeking protection, as well as those seeking admission who failed through other channels.52 Unfortunately, this also creates conditions conducive for the infiltration of foreign terrorists. The Canadian Security Intelligence Service (CSIS) has confirmed the presence of some fifty active terrorist organizations operating in Canada, ranging in scope from the Irish Republican Army to Hezbollah, Hamas, and al Qaeda.53 Moreover, Hani Al-Sayegh, Gazi Ibrahim Abu Mezer, Nabil Al-Murabh, and Ahmed Ressam (all known terrorists) gained access to Canada by seeking political asylum upon entry.54 Canadian officials were recently outraged when a report issued by the Federal Research Division of the

47. Gallagher, p. 11.
50. Bissett, p. 5.
51. Berry et al., p. 147.
52. Gallagher, p. 9.
54. Al-Sayegh was suspected in the 1996 Khobar Towers bombing in Saudia Arabia; Abu Mezer was apprehended with plans to detonate a bomb on a New York City subway in 1997; Al-Murabh has been identified as a key operative of Osama bin Laden; and Ressam was arrested trying to enter the United States from Canada with 100 pounds of high explosives intended for detonation at Los Angeles International Airport on New Years Eve, 1999. “North of the Border,” CBSNews.com.
Library of Congress listed Canada among the nations that are "hospitable to organized crime and terrorism." The authors quoted a senior CSIS official who argued that, "in most cases, [terrorists] appear to use Canadian residence as a safe haven, a means to raise funds, to plan or support overseas activities or as a way to obtain Canadian travel documents which make global travel easier." From a U.S. security point of view, this represents a potential threat to American security as terrorists can exploit Canadian policy and then use their Canadian base as a potential staging ground for terrorist attacks.

In the European Union, policy makers have sought to increase security through integration and policy harmonization, including "fast track" processing to dismiss "patently unfounded" asylum claims and applying "safe third country" and "safe country of origin" principles in asylum processing to reduce the practice of "asylum shopping." Indeed, in the case of Germany, EU harmonization provided a rationale for a significant tightening of asylum policy, one that had been the most liberal in post-WWII Europe and protected by the German Basic Law. Applying this strategy in North America has proven to be politically challenging, even given the strong bilateral relationship between Canada and the United States.

Canadian concerns for protecting the human rights of bona fide refugees and asylum seekers fleeing persecution made them weary to apply strict limitations on "safe third country" entrants. For example, a Canadian Refugee Bill that included a "safe third country" provision was tabled in Parliament in 1987. After heated debate and considerable political opposition, the bill finally was approved in July 1988. However, when the new law came into effect, government officials were unable to establish a list of "safe countries." Moreover, the Cabinet did not consider the United States to be a "safe country" for Salvadorans and Guatemalans that fled Central America in the 1980s. Ultimately, the Minister of Immigration announced that, "at the present time I am prepared to proceed with no country on the safe third country list." New legislation passed after 9/11 has yet to change Canada’s concerns about the practice of safe third country principles in asylum processing. The Immigration and Refugee Protection Act, passed in November 2001, actually increases restrictions on applying the "safe third country" principle in the practical processing of asylum claims. A report released in December 2003 points out that, "Article 102(2)(a) of the IRPA requires the government to ‘consider’ whether a ‘responsibility-sharing’ agreement exists

55. Berry et al.
58. Quoted in Bissett, p. 4.
between Canada and the transit country before a refugee claim can be considered 'ineligible' for determination in Canada."59 In contrast to American legislation passed after 9/11 that stresses security interests (e.g., USA Patriot Act, the Enhanced Border Security and Visa Entry/Exit Reform Act), the title of the 2001 legislation touts Canada's commitment to refugee protection with no reference to security. Moreover, policy makers have made their discomfort at policy harmonization quite clear. In October 2001, Immigration Minister Elinor Caplan suggested that U.S.-Canada discussions concerning a security perimeter focus on information sharing rather than harmonization: "Let there not be any misunderstanding. Canadian laws will be made right here in the Canadian Parliament."60

On the American side, there appears to be less incentive for a bilateral third country agreement with Canada, since the flow of asylum seekers generally flows toward Canada from the United States. Rather, a U.S. State Department official suggested that the "safe third country" agreement is something that "... Canada wants and that we are willing to agree to as a trade-off for other important counterterrorism measures."61 Reluctance for deeper integration and harmonization in this area is also evidenced in practice. For example, U.S. treatment of the case of Maher Arar suggests wariness with Canada's commitment to the war on terrorism and may also hint at a reluctance to turn over individuals that appear on U.S. anti-terrorist watch lists. U.S. immigration officials at Kennedy Airport detained Arar, a naturalized Canadian citizen born in Syria, on September 26, 2002, when he was suspected of having ties to Al Qaeda. Rather than deporting him to Canada, American authorities unilaterally decided to send Arar to Syria, without consulting Canadian authorities.62 A recent report by the Center for Strategic and International Studies suggests that, "By refusing to send [Arar] to Canada, the U.S. government appears to have believed Canada would let Arar walk free, or at a minimum fail to gain any information from him."63

The political inertia involved may explain the lag in implementing the safe third country agreement. The agreement was signed on December 5, 2002, but was not implemented until December 29, 2004. Under the terms of the agreement, refugee claimants are required to submit their claim in the first country they enter—either the United States or Ca-

59. Gallagher, p. 15.
61. United States House of Representatives, Hearing on the U.S. and Canada Safe Third Country Pact, Judiciary Committee, Subcommittee on Immigration (Oct. 6, 2002); also Gallagher, p. 15.
62. Canadian Foreign Minister Bill Graham was notified three days after Arar's arrest that he had been deported to Syria.
nada. In addition to being limited in scope (including only Canada and the United States), other limitations were included. An exception exists for refugee claimants attempting to enter Canada from the United States if they have family in Canada or if they are an unaccompanied minor. In addition, the agreement applies only to land border crossings. It does not include claims processed at airports or in the country's interior.

The safe third country agreement is a significant development in border management, and definitely suggests that increased collaboration between the United States and Canada is possible. However, there are many obstacles facing the creation of a more expansive North American security perimeter regime. For Canadians, immigration and border policy preferences are based on 1) maximizing the economic gains from migration, 2) upholding Canada's liberal humanitarian tradition, including protection for refugees and for those fleeing persecution requiring asylum, 3) facilitating the social integration of new immigrants, and 4) border control as a component of homeland security. Liberal, open policies have strong domestic lobbies in Canada that have been instrumental in shaping both immigration and asylum policies. Moreover, consistent with the liberal state hypothesis forwarded by James Hollifield and other migration scholars, the human rights and immigration law lobbies have successfully institutionalized protections for migrants within the judiciary (as well as the Immigration and Refugee Board) that constrain policy makers from enacting restrictionist policies. A Fraser Institute report argues, "... any effort to harmonize policies with other developed countries to address the challenge of illegal immigration . . . will evoke strong criticism from refugee advocacy and human rights groups as it has in all other developed countries." Indeed, defense of Canadian liberal identity is also evidenced in their preference for the term "zone of confidence" rather than "security perimeter" when discussing bilateral cooperation. Moreover, protection of Canada's approach to immigration reflects its distinctiveness and sovereignty. John Manley made this expression of a defense of Canadian sovereignty explicit: "Working closely with the United States does not mean turning over to them the keys to Canadian sovereignty."

65. Paul Henry, Trade Policy Analyst, Economic Policy and Programs Division, Selection Branch, Citizenship and Immigration Canada (CIC) put this priorities schema forward.
The Americans also have an economic-based interest in relatively liberal border policies. On this point, there is commonality between American and Canadian interests. However, the emphasis the Bush administration has placed on security and the war on terrorism warrant that economic interests cannot be forwarded at the expense of security. It is here that interests diverge. The Americans see coordination as a necessary means to increase security. From the U.S. standpoint, maximizing the capacity to screen entrants is not only a homeland security imperative, but a prerequisite for maintaining a relatively open stance regarding migration—both permanent and temporary. Coordination and collaboration would seem to forward this aim. However, like their Canadian counterparts, U.S. policy makers are also keenly defensive of their sovereignty in the issue of migration, making policy integration politically difficult. Echoing the sentiments of Canadian policy makers, President Bush remarked, “You pass your laws, we’ll pass our laws.”

Christopher Sands of the Center for Strategic and International Studies argues, “It is not at all clear that the United States has abandoned its preference for managing the border unilaterally since September 11. Indeed, in the absence of any clear Canadian initiatives or counterproposals for improving border security and fighting terrorism in North America, the bilateral cooperation since September 11 is impossible to distinguish from a combination of U.S. unilateralism and Canadian acquiescence to the U.S. agenda.”

Clearly, when we differentiate between coordination and collaboration, bilateral cooperation between Canada and the United States is centered primarily on the former rather than the latter. The Smart Border plan articulates several areas to cultivate increased coordination but few regarding policy harmonization or integration—in other words, few constraints are placed on independent policy decision making. Howard Adelman notes that, “Immigration and refugee policy has not been harmonized between Canada and the United States. Nor are there any indications that they will be.” The fact that the driving force behind such a regime is one that is more in line with a common aversion (terrorist alien infiltration) than a common interest (preference for a single common outcome), and is influenced by ideas regarding the goals and structures of such a regime, all would suggest that deeper integration remains unlikely.
in the foreseeable future. Yet, we might also note that, given the fact that immigration and border control has long been considered a purely domestic interest, recent developments can be considered a significant step in the direction of deeper collaboration. As practices involving coordination foster the development of new norms, it is possible that concerns about sovereignty and ideas regarding appropriate policy may become less of a barrier to regime formation, at least on a bilateral basis between Canada and the United States.

B. THE U.S.-MEXICO BORDER PARTNERSHIP ACTION PLAN

The border between the United States and Mexico is an active one. Levels of trade have continued to grow since the creation of NAFTA, and Mexico is now the second largest trading partner with the United States. Migration flows, both official and undocumented, have grown as well. The San Ysidro port-of-entry remains one of the world’s busiest land-border crossing points in the world, including both transborder workers and tourists. Evidence suggests that illegal immigration flows have increased as well. Border Patrol statistics show that the number of illegal immigrants apprehended along the southwest border increased from 979,101 in 1994 (fiscal year) to 1,159,802 in fiscal year (FY) 2004. These numbers reached a peak of over 1,600,000 in FY 2000 before the economic downturn in 2001—2002 reduced the economic incentives for migrants. The difficulty of managing an extensive land border between two countries with such disproportionate economies and wages has prompted some analysts to suggest that a growing gap exists between control policies and policy effects on migration flows.

The southern border has been a security concern for American policy makers since the President’s Commission on Migratory Labor issued a warning in 1951 about an emerging “wetback invasion.” This perception of threat has continued since then, evidenced by public statements regarding “regaining control” of our “neglected border” in the 1970s and 1980s, to the “alien invasion” in the 1990s. For the most part, however, the nature of the perceived security threat was not linked to a military dimension, but rather to a combination of security’s economic and social dimensions. Concern over securing the southern border has dominated U.S. policy making over the past thirty years, with a disproportionate amount of resources and manpower allocated to achieve


74. Referred to as the “Gap Hypothesis.” See Cornelius, Tsuda, Martin, and Hollifield, Controlling Immigration: A Global Perspective.


76. See Christopher Rudolph, “Security and the Political Economy of International Migration.” Most recently, a highly controversial article by Samuel Huntington again defined the southern border as a societal threat. See Samuel Huntington, “The Hispanic Challenge,” Foreign Policy (Mar./Apr. 2004).
this goal.\textsuperscript{77} The events of 9/11 have only served to strengthen support for this approach, and have increased demands for more rigid controls of migration flows between the United States and Mexico.

The Mexican perspective of the border—and migration in general—sharply contrasts with the American view. For Mexicans, migration is a fundamental way of life and is considered a basic human right. This right of free movement is codified in the Mexican constitution, but public opinion shows attitudes toward open migration that do not stop at the nation’s borders. A 2002 Zogby poll found that 57\% of Mexican respondents agreed with the statement, “Mexicans should have the right to enter the U.S. without U.S. permission.”\textsuperscript{78} In addition to ideational aspects, material interests also favor open migration policies. For a country that continues a sometimes-rocky road to advanced industrialization, international migration offers an important safety valve to stem unemployment pressures in the Mexican economy.\textsuperscript{79} Moreover, the increasing volume of currency remittances from emigrants working abroad—now estimated to amount to at least $14 billion annually—offers a significant inflow of foreign exchange necessary to increase the country’s balance of payments position. For Mexico, it is estimated that remittances represent the third-largest source of hard currency for the economy.\textsuperscript{80}

It is little wonder then, that Vicente Fox has consistently placed the issue of international migration at the top of high foreign policy priorities. Indeed, the Mexican government views the issue of migration at least as important as the issue of trade, and considers both integral facets of any North American integration regime.\textsuperscript{81} Among the leaders of North American countries, Fox has been the most forceful in pushing for a deepening of regional integration following the European model.\textsuperscript{82} His vision for a deepening of NAFTA integration is based on facilitating the free flow of people, in addition to goods and capital.

Initially, the election of George W. Bush seemed to bode well for a new round of negotiations regarding immigration. During the election, Bush sought to build his foreign policy base on the positive relationship he had established with Fox when he was governor of Texas. Politically, the divisive anti-immigration rhetoric that proved volatile in the United


\textsuperscript{82} Interview with Vicente Fox, \textit{The News Hour with Jim Lehrer} (Mar. 21, 2000), available at http://www.pbs.org/newshour/bb/latin_America/jan-june00/fox_3-21.html.
States during the 1990s was quelled by a combination of the economic boom and the highly visible border defenses that had been established at key points along the border. After a February 2001 meeting between Fox and Bush, the U.S.-Mexico High Level Working Group on Migration was established and a subsequent meeting between the leaders was held on September 5, 2001 to further this agenda.

The political effects of September 11 clearly affected the momentum of the migration talks and U.S.-Mexican relations more generally. As noted by Peter Andreas, "Fox's border-free vision of North America was one of the first casualties of the devastating terrorist attacks. . . ." Bilateral talks regarding migration were immediately and indefinitely tabled as the United States focused on the issue of homeland security and the emerging war on terrorism. Fox soon complained that the United States had become too focused on the issue of security and that the U.S.-Mexican relationship was suffering because of it. Jorge Castañeda, the Mexican Foreign Minister, suggested that, "In many ways, the region, at least in terms of U.S. attention, has become once again an Atlantis, a lost continent." From the American perspective, the newly acknowledged link between migration control and terrorism cast the southern border in a new light. What had been largely a political problem prior to 9/11 had now become a key issue for strategic security. A Library of Congress report suggested that, "Because of its close proximity to the United States, its porous borders, its strategically significant oil industry, and a large U.S. commercial and tourism presence, Mexico may serve as a transit or target environment for a foreign terrorist operation." The issue of porous borders is particularly sensitive to U.S. security interests. Traditionally, Mexico has served as a transit point for economic migrants coming from Central and South American countries. This, however, poses a risk that terrorists and their organizations may exploit the same openness. Describing the border situation, Mexican Congressman Emilio Zebadua said, "The Mexican government is either unable or unwilling to really take this southern border as a major priority." He added, "They have pretty much left it as an open border."

Prior to September 11, the United States government pressured the Fox Administration to address the security by suggesting that increased

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83. Christopher Rudolph, "Security and the Political Economy of International Migration."
85. Andreas, "A Tale of Two Borders."
88. Berry et al., p. 171.
security is a necessary condition for talks concerning a bilateral migration accord. The result was the Plan Sur (South Plan) that was aimed at apprehending and repatriating illegal aliens crossing Mexico’s southern border. The events of 9/11 increased U.S. support for the program and prompted material support. The U.S. government supplied boats to the Mexican navy to patrol the southern shore, and also provided needed capital to pay for the repatriation program. In 2002, the program repatriated 120,000 immigrants to their home countries, and another 141,000 were returned in 2003. Though such measures have increased security on the border somewhat, it is far from “secure.” A representative of the UNHCR suggested that control remained elusive: “Controlling this border is impossible. And it’s not only a question of will. It’s a question of geography, corruption, violence and the well organized nature of the trafficking.”

The issue of government corruption not only plagues security along the southern border, but also in terms of access into Mexico and the United States more generally. Moreover, events immediately following 9/11 suggested that this could contribute to infiltration by terrorists, who would then attempt to cross the border into the United States. In October 2001, an Iraqi-born migrant smuggler confessed to establishing a working relationship with a corrupt Mexican immigration officer in order to smuggle over 1,000 migrants from the Middle East into the United States. A Heritage Foundation report argues, “Despite direct intervention by President Fox to end bribery on the U.S.-Mexican border, customs and immigration services are weak elsewhere and plagued by corruption.”

Mexico has long been sensitive to U.S. policy makers referring to illegal immigration as a security threat. Ironically, though, security has paved the way for a renewal of talks on a bilateral accord dealing with migration. Although from a normative standpoint framing migration in a security context is anathema to Mexican sensibilities, it provides a “more politically palatable rationale for Mexico to cooperate on immigration control.” The key issue is where the “security” focus is placed. For Mexicans, immigration control is not problematic so long as it is not directed primarily at them, but rather other foreign nationals who may use the country as a transit point to gain entry into the United States. Moreover, using a security rationale has also given Mexican diplomats another tool to use to garner U.S. support for two of its primary foreign policy goals: 1) amnesty for the current population of undocumented workers living in the United States, and 2) a legal alternative to undocumented access to the American economy. Mexican policy makers are careful in

91. Ariel Riva, local director for the UNHCR, quoted in Dellios, “Mexico Struggles to Secure Its Southern Border.”
92. Johnson and Fitzgerald, “The United States and Mexico: Partners in Reform.”
TABLE 2:
DEGREE OF HARMONIZATION WITH SELECTED ELEMENTS
OF THE U.S.-MEXICO SMART BORDER ACTION PLAN

<table>
<thead>
<tr>
<th>Area</th>
<th>Description</th>
<th>Coordination or Collaboration?</th>
</tr>
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<tbody>
<tr>
<td>Pre-Cleared Travelers</td>
<td>Expand the use of SENTRI lanes at high-volume ports of entry</td>
<td>Coordination</td>
</tr>
<tr>
<td>Advanced Passenger Information</td>
<td>Establish a joint APIS system for US-Mexico flights</td>
<td>Coordination</td>
</tr>
<tr>
<td>Facilitate Travel Within NAFTA Countries</td>
<td>Explore methods to facilitate the movement of NAFTA travelers</td>
<td>Coordination</td>
</tr>
<tr>
<td>Safe Borders</td>
<td>Increase safety along the border for migrants; reduce migrant smuggling</td>
<td>Coordination</td>
</tr>
<tr>
<td>Visa Policy</td>
<td>Continue consultations on visa policies and visa screening procedures. Share intelligence information.</td>
<td>Coordination</td>
</tr>
<tr>
<td>Joint Training</td>
<td>Conduct joint training in the areas of investigation and document analysis</td>
<td>Coordination</td>
</tr>
<tr>
<td>Compatible Databases</td>
<td>Develop systems for exchanging and sharing intelligence</td>
<td>Coordination</td>
</tr>
<tr>
<td>Screening Third-Country Nationals</td>
<td>Enhance cooperative efforts to detect, screen, and deal with potentially dangerous third-country nationals</td>
<td>Coordination</td>
</tr>
</tbody>
</table>

Source: The White House

how they define the security interests involved. Interior Minister Santiago Creel remarked, “The Mexican migratory flow represents no risk whatsoever, even less if it is documented.”94 Careful to emphasize that Mexican migrants do not represent a potential terrorist threat, Creel argued that, “Migrant regularization would provide the United States with a greater margin of security than the one it currently has.”95

American desires to leverage its homeland security program by garnering assistance from its neighbors, combined with the emerging desire of Mexican officials to leverage cooperation in return for renewed talks concerning migration, led to the U.S.-Mexico Smart Border Agreement, announced in March 2002. The agreement put forward a 22-point action plan that outlined the specific areas for increased coordination and harmonization in three categories, including the secure flow of people, goods, and infrastructure.96 Table 2 lists the elements of the 22-point action plan specifically addressed to the issue of bilateral cooperation in the category of international migration. As is the case with the Smart Border

95. Ibid.
96. Available at http://www.whitehouse.gov/infocus/usmxborder/22points.html.
agreement between the United States and Canada, the action plan is intended to identify areas where increased cooperation can be mutually beneficial and establishes a framework for future development.

When examining the U.S.-Mexico agreement and action plan in detail, two features are readily apparent. First, as is the case with the U.S.-Canada agreement, the emphasis is exclusively on increasing coordination rather than collaboration or harmonization. Second, the verbiage on many of the items in the action plan is vague, especially when compared to the verbiage used in the U.S.-Canada plan. Where the word “harmonization” is used, it refers to the standardization of infrastructure, such as compatible databases, or to synchronizing operations at ports of entry. It makes no attempt to suggest that migration policies would be harmonized. Where policy issues are identified, such as visa policy, “harmonization” is intended to refer to establishing “enhanced cooperation” in screening third country nationals by facilitating information sharing. Along many of the areas specified in the agreement, particularly those dealing with migration, participants are bound only to “explore methods” or “continue consultations”—suggesting both an extremely limited degree of integration and a palpable uncertainty about the prospects for such integration in the future. The agreement clearly emphasizes those dimensions border issues where there is a high degree of common interest, including facilitating trade flows, facilitating the movement of “low risk” travelers, and protecting human rights. Former DHS Secretary Tom Ridge and Interior Minister Santiago Creel pointed to several developments as evidence of “tremendous progress” over the past year. These include expanding the SENTRI program, expanding the Border Safety Program (to reduce deaths of migrants trying to cross the border), and expanding FAST lanes at ports of entry. Security issues receive much less emphasis and/or specificity. The limited gains achieved through the U.S.-Mexican accord were evident in recent statements by Ridge and Creel. In February 2004, Ridge and Creel touted two developments as evidence of progress in bilateral cooperation: 1) a tentative agreement that affirms U.S. policy to deport illegal immigrants to their home regions, not just across the border, and 2) the establishment of a secure telephone line between Ridge and Creel. There has also been progress in terms of the Advanced Passenger Information

98. In terms of synchronizing operations, the action plan specifies “harmonizing” hours of operation, infrastructure improvements, and traffic flow management at adjoining port of entry on both sides of the border.
System, as well as expressed desires to implement the NEXUS program as has been done between the United States and Canada.

In terms of security, the most significant development in terms of the possibility for an integrated U.S.-Mexican approach for migration control is the change in the tenor of the discussions. By reframing their arguments in terms that emphasize security benefits gained through "safe, orderly, and secure" migration, Mexican policy makers have helped to restart discussions that were essentially dead in the water after 9/11. Santiago Creel points out that, "Without a doubt, security is an area that has allowed us to draw closer."¹⁰¹ Mexican authorities hope that giving security a favorable ear will provide the necessary political leverage to pressure U.S. lawmakers to pass an amnesty bill through Congress and establish a new guest worker program for Mexican laborers. However, it is not likely that we will see this new dialogue or the Smart Border Agreement produce a comprehensive, integrated approach to migration control in the near future, even on a limited bilateral basis. U.S. policy makers face considerable obstacles to fulfilling Mexican desires for such a comprehensive plan, especially the issue of amnesty—a politically unpopular policy for a vast majority of the American public. Instead, the Americans have shown a preference for a much more limited type of cooperation. Roger Noriega, the U.S. Assistant Secretary of State for Western hemispheric affairs, clarified the U.S. position: "I think (small steps) will allow us to continue to consult with and gauge the interest from our Congress. But decisions on [a comprehensive U.S.-Mexican migration accord] have to come from the very top, and at this point we're not in position to go forward on the bigger agenda, the broader, more comprehensive approach."¹⁰² Colin Powell, who suggested that a migration accord is "going to take us a lot more time and a lot more effort," echoed this sentiment. He added that immigration involves "extremely complex and difficult issues" that involve a lot of "political interests."¹⁰³

IV. THE ROAD AHEAD

Policy makers in each of the NAFTA member states have expressed a desire for some form of multilateral action concerning migration control. Americans have put forward the notion of a "security perimeter," Canadians have referred to the establishment of a "zone of confidence," and the Mexicans have suggested that only a comprehensive approach is acceptable—"It's the whole enchilada or nothing."¹⁰⁴ The empirical evidence presented here suggests, however, that the unequal distribution of

¹⁰¹ Quoted in Alsonso-Zaldivar, p. A14.
¹⁰² Quoted in Alfredo Corchado, "Possibility of Migration Accord with Mexico Revisited," The Dallas Morning News (Nov. 12, 2003).
¹⁰⁴ Jorge Castañeda, quoted in Tom Zoellner, "Mexico Says Legalize Crossers or No Deal," The Arizona Republic (June 22, 2001).
power among NAFTA states, disparate interests, and ideational factors make the establishment of a comprehensive, harmonized regime governing migration and border policy in North America highly unlikely. Peter Andreas notes, "To 'Schengenize' North America's borders... would require a level of formal institutionalization and policy harmonization that is difficult to imagine in the present context...."

Reflecting disparate interests, policy makers in each state have a different notion of what a "North American security perimeter" would consist of. The Americans stress increasing security through screening, while the Mexicans have always favored an EU-style "open borders" regime. The Canadians fall somewhere in-between. Each has an interest in increasing protection against terrorism, but for markedly different reasons. Clearly, given its power and the leadership role it has assumed in the global "war on terrorism," Americans are most acutely threatened by the proliferation of international terrorism and have placed the most emphasis on security regarding migration and border policy. The Canadian and Mexican governments appear more concerned that terrorists may use their countries in transit to direct terrorism against the United States and that such terrorist acts would deteriorate bilateral relations. This, in turn, would complicate their desire for more open borders. However, neither Canada nor Mexico seems ready (or able, in the Mexican case) to acquiesce to U.S. security interests, nor are their interests necessarily convergent. Moreover, each remains committed to sovereignty over policy decisions, as are American policy makers.

Power, interest, and ideational variables identified by regime theorists all suggest that a formal comprehensive North American migration regime is unlikely. This is certainly supported by the available empirical evidence of current developments of expressed interests. NAFTA has always forwarded a process of shallow rather than deep integration, as is the case with the European Union, and has been focused primarily on the issue of trade liberalization. With the exception of the Fox administration in Mexico, there has been little support for deepening North American integration. Rather, political support has been directed toward expanding the scope of existing integration to include countries in Central and South America—the creation of a Free Trade Area of the Americas. Although the post-9/11 security dilemma may have increased interests for greater integration that includes migration control, there is little to suggest that this "dilemma of common aversion" will result in a comprehensive, formal regime. Instead, the "security perimeter"—at least regarding migration—will likely consist of myriad points of bilateral rather than multilateral coordination, and will also maintain state sovereignty with regards to migration policy.

Given these political realities, what are the available options? Where do we go from here? At this point it is not at all clear that we actually

need a comprehensive, formal, and multilateral regime. Indeed, following Arthur Stein’s model, the expression of interests among North American policy makers suggest that the issue of border management is one of a dilemma of common aversion rather than common interest—at least in this early post-9/11 period. Because unity of interest is centered on avoiding a particular outcome, we are most likely to see a continuation of the somewhat fragmented approach taken to date. A U.S. State Department official recently suggested that, “a piece-by-piece approach represents the best strategy for achieving a migration pact that’s vital to both the United States’ security and its economy.” Instead of a multilateral security perimeter regime, the short-term focus needs to be placed on establishing a working security system and increasing ad-hoc coordination among NAFTA countries.

Increased openness is in the economic interests of each NAFTA member country, yet American policy makers have made it clear that such openness cannot be achieved at the expense of homeland security. Because homeland security issues are now a necessary condition to forward liberalization, policy makers must focus on those elements most crucial to any security regime. These elements include gathering and organizing intelligence, creating effective infrastructure to disseminate this information, and ensuring that access to this system is secure and controlled. At this point, American efforts in this regard remain very much a work in progress. The creation of the Terrorist Threat Integration Center (now the National Counterterrorism Center or NCTC) represents a tremendous first step in building a better intelligence base, and the new Terrorist Screening Center offers potential for expedited access to this information that is crucial if security is to be increased without creating back-logs at consulates abroad and ports-of-entry. It is important to include Canadian and Mexican officials in terror assessment and to promote the establishment of similar security infrastructure in those countries so that intelligence information can be effectively shared among them. Key issues that need to be addressed include: 1) what information will be made available to foreign security officials, 2) what process will be used to vet foreign officials for access to the American intelligence system, and 3) how can security be maintained in terms of access to the system? Multilateral consultations must also address the logistical demands that such international cooperation may make on the computer systems that process such information. If the United States makes TSC information available to Canadian and Mexican immigration officials, what effect would this have on the computer hardware system? Are current facilities adequate to process information requests?

Including Canadian and Mexican officials in threat assessment and providing access to anti-terrorist intelligence also provides an incentive for

106. Roger Noriega, Assistant Secretary of State for Western Hemispheric Affairs, paraphrased by Alfredo Corchado, “Possibility of Migration Accord with Mexico Revisited,” The Dallas Morning News (Nov. 12, 2003).
their governments to increase screening procedures for those entering
their countries. Increasing the probability that potential terrorists can be
effectively identified prior to entry or detained if they have already en-
tered the country is in everyone’s best interests. What will be imperative
then, is making sure that access to this information is facilitated. Clearly,
much work needs to be done regarding the role of information technol-
ogy in providing access to intelligence information and facilitating screen-
ing processes. Promoting “harmonization” among NAFTA countries
regarding information infrastructure and controlled access to this system
will likely form the basis of movement toward a North American security
perimeter in the short run. Once these necessary security conditions are
in place, talks on regime formation can once again focus on the common
interest: facilitating cross-border movement in North America to pro-
mote economic gains.