

Lost at Sea: Port Security and Canada

Tiffany Farion

MA Student

Centre for Military and Strategic Studies, University of Calgary

Tiffany Farion graduated from the University of Calgary with a Bachelor's degree in International Relations, specializing in security and strategy, and North America. Currently, she is a Masters student at the Centre for Military and Strategic Studies at the University of Calgary. Her main interests are terrorism, security and defence issues, and military strategies. She has presented a chapter of her thesis already and has had it published as well.

Abstract:

The world was dealt a tremendous blow with the disastrous events that unfolded on September 11, 2001. Since that time North American airlines have struggled to create and implement more effective security policies in order to prevent another disastrous attack. While the airline industry is transitioning into a more secure environment, other areas of security are being neglected. Al-Qaeda has proven itself to be quite imaginative in the manner in which it spreads terror. There has been an increasing emphasis on airport security while considerably less attention has been paid to the security of our ports. This is an area of concern to both Canada and the United States. The economies of both countries rely heavily upon trade with other countries. Any damage to this system would have drastic negative effects on both countries. Has the Canadian government taken necessary steps to increase security at our ports in order to impede any possible attacks against them?

I intend to compare and contrast the security measures that existed before 9/11 to any new policies that the government has implemented. I also plan to contrast the level of importance of port security to the Canadian government against the security policies of the United States. Have new security policies been implemented in order to create a more secure trading system? Are there inconsistent opinions on the security flaws in the systems? Do flaws in the security of our ports exist and if so have we done anything to minimize our vulnerability to terrorist activities? Is this even considered to be a potential threat to Canadians in order for the government to seriously consider this a threat to our nation's security?

I intend to examine the changes that have occurred in port security since 9/11 and evaluate the costs of these changes, as well as the costs of the possible security risks that still exist. My conclusion will be centred on whether these changes have been effective in increasing Canadian port security and whether there are still significant security risks that need to be addressed in order to maintain the success of our economy.

Today, the world is faced with many challenges. These challenges occur in many different areas such as economic, social, cultural, and political fields. Specifically, in the realm of politics and the state, there have been significant changes recently. Historically, states have been concerned over their own security in order to protect their population and way of life. The meaning of security has evolved with the type of threats present in the international system at a given time. Today the threat to state security, particularly in the Western states, is terrorism. The United States and Canada have both been the victims of terrorist attacks in the past two decades. The United States was the victim of terrorism on September 11th, 2001, when four hijacked airplanes were flown into the World Trade Center, the Pentagon, and a field in Pennsylvania. In June 1985, Air India Flight 182 travelling from Montreal to London exploded and crashed into the North Atlantic Ocean.ⁱ 280 of the 329 passengers killed were Canadian.ⁱⁱ Statistically, the casualty rates of both of these events are approximately the same ratio to their respective populations. This is why terrorism and security have become prominent issues to both of these countries. However, the terrorist threat is not primarily directed towards airports and airplanes. Important security vulnerabilities were exposed during the attacks of 9/11, which have led the governments of these two countries to assess further liabilities in related areas.

As the meaning of security has changed over time, so has the definition of terrorism. The Canadian Security Intelligence Services Act defines terrorism as “activities...directed toward or in support of the threat or use of [serious violence] against persons or property for the purpose of achieving a [political objective] within Canada or a foreign state.”ⁱⁱⁱ According to the Senate report, the causes of terrorism can include “political or ideological objectives, religion, nationalism, [or] ethnic separation[.]”^{iv} The American definition of terrorism is similar to the Canadian version in that it considers terrorism to be “premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience[.]” with an added emphasis on international terrorism.^v Following Ivan Dee’s definition of terrorism, international terrorism “involves the territory or the citizens of more than one country.”^{vi} Clearly, the security threat currently involves extremist groups that rely on the use of terror tactics in order to intimidate and coerce a state and its citizenry.^{vii} Since September 11th, 2001, Canada and the United States have come to realize that they are prime targets for terrorism. The events of 9/11 have forced these two countries to examine not only their airport security, but also other security areas as well. Terrorist groups aim to inflict fear upon a state’s citizenry, therefore they “tend to seek out other [...] targets that remain relatively [undefended].”^{viii} Because of the reliance on global economic interdependence, port security has quickly become a sector that is increasingly vulnerable to terrorist activities due to the large amount of trade that is conducted within and beyond the borders of these states. “The tragedy of September 11th has ignited security concerns in both the United States and Canada in hopes of preventing another catastrophe due to insufficient security measures.”^{ix} Have the governments of Canada and the United States successfully identified the risks related to port security in their respective countries and have they taken adequate measures to minimize the danger?

Canada is aware of the lack of security at North American ports. In the Standing Senate Committee on National Security and Defense Report, it is recognized that “only a small percentage of containers entering North American ports are currently searched.”^x This is a tremendous security risk that is well known to the government of Canada. However, this security risk was not recognized as a major threat to our security. According to the report, terrorists rely on asymmetrical warfare in order to create a level playing field with their more powerful enemies. It defines asymmetrical warfare as “warfare that lacks the ‘predictability’ of traditional military thinking [and is] the greatest man-made physical threat to industrialized societies.”^{xi} Because of the unpredictability of terrorism and its targets, North America must adopt a new security emphasis: “defending against what was once the unthinkable.”^{xii} Identifying one of Canada’s vulnerabilities was quite a simple task. With a coastline of roughly a quarter of a million kilometres, Canada has the longest coastline in the world.^{xiii} It would be logical to assume that the government is aware of this vulnerability and has employed adequate measures to ensure our security because of the length of the coastline. However, that is not the case. The Senate states that our seaboard is vast and vulnerable with the added offense that it is often neglected.^{xiv} While the United States is still a target for terrorism, Canada has become a target because of our close proximity to the United States, our strong economic ties, and similar values and beliefs. We have already identified that one of our greatest vulnerabilities lies in our coastline. Because of the significance of ports to our economy, a logical solution would be to improve the security at our port and then secure our maritime vulnerabilities in the most efficient manner. But has the government created adequate measures to significantly reduce our liabilities? The Senate is “convinced that Canadians’ peace-loving nature is a double edged sword: Canadians’ distaste for violence too often makes us turn our backs on the threat of violence, rather than seeking remedies to lessen the probability.”^{xv} This type of attitude creates problems when dealing with security matters because with such a complacent attitude, security policies and threat assessments would not be accurate. This is an enormous hurdle that the Canadian government must overcome in order to create a better defense policy for our coasts.

On the American side, the government has also recognized the importance of port security. The United States, like Canada, has a tremendous reliance on the trading of goods in order to sustain its economy. This creates a great dependence upon ports in order to maintain the free-flow of goods, creating numerous vulnerabilities for the United States. “Protecting against these vulnerabilities is made more difficult by the tremendous variety of U.S. ports.”^{xvi} The flow of goods in and out of these ports also creates a security risk that compounds the problem of added screening procedures. The report states that “even slowing the flow [of goods] long enough to inspect either all or a statistically significant random selection of imports would be economically intolerable.”^{xvii} A new set of security measures would be required to secure America’s ports in order to maintain the flow of goods. The General Accounting Office states that “[p]ort vulnerabilities stem from inadequate security measures as well as from the challenge of monitoring the vast and rapidly increasing volume of cargo, persons, and vessels passing through the ports.”^{xviii} According to this report, there are four main concerns, that must be addressed in order to create more effective security policies. The size of the port, and its “accessibility makes it difficult to apply the kinds of security

measures that [...] can be more readily applied at airports[,]” thus making it more difficult to overcome.^{xi} Also, the port’s location is identified as a vulnerability because many are located near urban areas and are connected to the city’s infrastructure.^{xx} This is a significant concern because a terrorist attack on such a facility would have tremendous consequences for the surrounding city. Like Canada, the United States must prepare itself for the unthinkable, creating a dilemma because of the quantity of goods that travel through a port at any given time. In this situation, terrorists have “a ready avenue for the introduction of many different types of threats.”^{xxi} The “combination of many different transportation modes and the concentration of passengers, high-value cargo, and hazardous materials” generates favourable circumstances that would allow terrorists to wreak havoc on American soil.^{xxii} The report identifies three challenges to the United States government in order to successfully implement effective new security measures. These three challenges are setting standards for all ports, funding for the policies, and collaboration among agencies, the private sector, and different levels of government. Without meeting these challenges, the United States has no hope of creating new security policies.

In Canada, the main challenges of port security are a lack of resources and the need for better surveillance. According to a former Coast Guard Commissioner, “[a]t the national level, virtually all of the organizations involved directly or indirectly in maritime security appear to have significant capacity problems.”^{xxiii} This problem can be attributed to the 1994 Canadian White Paper. In this White Paper, the defense budget was significantly trimmed because the past threats to our security dating to the Cold War no longer existed. If this threat no longer existed, then there would be no need to maintain the defense forces or their budget. This was a large miscalculation as our nation now faces a unique threat and with insufficient resources to combat this threat. Former Transport Minister David Collenette announced in January 2003 that the government would infuse the funding of Canada’s maritime transport and security budget by \$172.5 million dollars over a five-year period.^{xxiv} However, as the Senate report states, this averages out to only \$34.5 million dollars a year.^{xxv} Is this amount reasonable for the new security measures that Canada desperately needs to implement? The areas requiring extra funding are the Coast Guard, the Navy, and the Royal Canadian Mounted Police (RCMP).

Charles Gadula, Director General, Fleet Directorate, Marine Services, CCG (Canadian Coast Guard) has estimated that the CCG would require \$350 million dollars in order to replace the vessels that are currently in use.^{xxvi} This does not include the further responsibilities that the Canadian government will be placing upon the CCG in the near future. This amount far exceeds the total amount the government is willing to invest in Maritime security. There is a great discrepancy between what the government feels is necessary for our security and what the forces feel is adequate to ensure our security. In fact, both the RCMP and the Canadian Navy have given the CCG surveillance duties on top of their overextended capabilities.^{xxvii} As of December 2000, the CCG was performing five different sets of duties without proper funding from the government or the agencies that benefited from these duties.^{xxviii} The CCG is having difficulty with its rusting fleet in maintaining their current responsibilities due to improper funding. Any further obligations would be futile to hand over to the CCG as they lack the resources necessary to undertake any new measures.

There are also funding and surveillance problems within the Canadian Navy (CN). Following the reasoning that Canadians do not feel that there is a real threat to our security and safety, the CN places priority on overseas missions instead of defending our coastlines from security threats. However, even if the mandate of the CN became concentrated on Canadian security, it is still under-funded and does not have the capabilities to do so.^{xxix} The current naval vessels are too slow to perform most surveillance duties of Canadian coasts, not to mention that the cost of operating these vessels would be far greater than any benefit derived from this. The Senate recommends that, should the CN take greater interest in Canadian domestic security issues, it would require cutters (which incidentally is the same type of ship that the United States Coast Guard employs on its coastal surveillance).^{xxx} However, given the current position of the Canadian government on security issues and the under-funding of the Navy, what is the probability that they would receive the necessary funding to defend our coastline in a more efficient manner? The Senate report mentions that all twelve of the Canadian frigates are desperately in need of upgrades in order to perform their duties, and there would only be one Sea King helicopter available on each coast.^{xxxi} This severely limits the potential capabilities of our navy to fulfill its surveillance requirements. The other available resources the CN operates with can be divided into six priority areas: Aurora Air Surveillance, High Frequency Surface Wave Radar, Satellite Surveillance, Arctic Surveillance, Maritime Coastal Defense Vessels, and Unmanned Aerial Vehicles.

The security concerns with the Aurora aircraft stem from two parts. They are in desperate need of modernization. With the current funding, only sixteen of the eighteen aircraft can be improved.^{xxxii} Also, some of these Aurora aircraft were deployed in the Persian Gulf for up to eighteen months until July 2003.^{xxxiii} Limiting their patrols to only once a week, there was a great void in the coastal patrols of the East and West coasts.^{xxxiv} There is no possible way that this patrol could detect even a remote percentage of the security threats to Canada. The use of outdated technology in order to perform occasional patrols is not, by any means, acceptable to enhancing the security of Canadians.

The High Frequency Surface Wave Radar (HFSWR) is a Canadian innovation that has the potential to survey more coastal area in an efficient manner. It can detect “low flying aircraft and surface targets beyond the horizon [and] operate out to approximately two hundred nautical miles virtually unaffected by weather conditions[.]”^{xxxv} This is a great advantage to Canada’s surveillance capabilities because it gives the CN a ‘real-time’ picture of our waters. This allows us to discern who is in our waters and continuously track their instead of merely making projections as to the path of the vessels. The HFSWR is currently only a pilot program, but if it is successful it will be implemented in high-traffic areas in order to supplement coastal patrols.

“Canada has no dedicated satellite surveillance capability, and rarely makes use of satellite images from private companies other than [the] Department of Fisheries and Oceans contract[ed] to track oil slicks from ships.”^{xxxvi} The threats to Canada’s coasts are not a high priority for the government of Canada or else they would be interested in more than simply oil slick satellite images. Without regular naval or aerial patrols, satellite imagery would be an adequate alternative to coastal surveillance. What makes this option unrealistic for the government is the cost. To acquire the desired satellite surveillance of our coasts, the cost would be \$51 million a year.^{xxxvii} This amount

exceeds the sum of \$34.5 million a year that the government has put towards increasing our maritime security. The advantage of satellite surveillance is the ability to survey extensive areas using different levels of resolution.^{xxxviii} The disadvantage of this type of surveillance is that the satellite only orbits over an area once every twenty-four hours, which leaves a large window of opportunity for a threat to approach our coasts without facing many, if any, security checkpoints.^{xxxix} This is still better surveillance than the Aurora patrols that occur on a weekly basis. To the government, the benefits of this technology do not outweigh the costs.

Arctic surveillance, according to the Senate report, is very sparse. The “surveillance” of the Arctic occurs for a period of 90 days (or approximately 3 months during the year), executed by a total of six ships.^{xl} This cannot even begin to provide adequate surveillance for our Arctic waters because “it is simply a matter of time before there will be commercial trans Arctic shipping.”^{xli} If commercial traffic begins to make use of the Arctic sea route, so will illegal merchants and vessels as there are no security surveillance measures in place. This could be considered a very simple way to penetrate Canada’s coastline and travel inland, however not even the Senate report regards the Arctic as a likely terrorist threat. Isn’t this the same sort of attitude that we held before 9/11? We take it for granted that nothing has happened in our Arctic waters. This has created an attitude of complacency but this does not mean that our Arctic coastline is not a prime terrorist target. In fact, because terrorists rely on asymmetrical warfare, they seek out targets that remain relatively undefended and are therefore more easily penetrated. This should create a small amount of concern to the government of Canada, who constantly maintains that Canada is concentrating on increasing its security.

The CN also has twelve ships that are called Coastal Defense Vessels which are not used for the defense of our coasts at all; instead they are used to train naval reserves.^{xlii} If the government of Canada is in such dire straits for funding to improve our security, armed forces and their equipment, why would they acquire twelve of these ships if they are not even designed to accomplish what we are aiming to improve in our vulnerabilities? This is a misuse of funds that could be better used for other objectives dealing with our security liabilities.

Unmanned Aerial Vehicles (UAVs) would be another answer to how Canada could better patrol its coastline. They are capable of long surveillance missions for up to twenty-four hours and can survey up to forty thousand square kilometres at a time.^{xliii} This would be very beneficial to Canada’s coastal security it could take by taking the majority of surveillance duties away from the CN and CCG. This in turn would leave them to perform more specific responsibilities more accurately. Again, the reason that the Canadian government has not implemented this as a new security initiative is the cost. UAVs are priced at approximately \$20 million US dollars per vehicle, which does not include the maintenance or staff to support it and therefore cannot possibly fit into the current government’s security plans.^{xliv}

The RCMP has policing responsibilities at Canada’s ports, as well as in defense of its coastline.^{xlv} However, there have been increasingly noticeable security gaps in the major ports of Halifax, Vancouver and Montreal due to the penetration of organized crime.^{xlvi} In light of this, the RCMP was granted \$11.5 million of the Maritime Security initiative in 2003.^{xlvii} This funding is allocated for enhanced criminal record checks on employees at ports, Armed Ship Boarding Training, and extra RCMP officers at the three

major ports in Canada.^{xlviii} Unfortunately, the RCMP is only able to fund eight extra officers whereas the RCMP believes that twenty-four officers are necessary in order to secure our ports. There is quite a discrepancy between what the government and RCMP views as adequate security measures. These challenges further demonstrate that the government is either unable or unwilling to pay for the much-needed security measures that must be taken in order to ensure the safety of Canadians.

Clearly, most of Canada's challenges listed involve maritime security challenges as opposed to port security. In the following chapter of the Senate report which deals with increased surveillance, there is a greater emphasis on coastal security initiatives such as loading in foreign ports, entry into Canadian waters, the Automated Identification System, the International Ship and Pot Security (ISPS) Code, improved Coast Guard surveillance, HFSWR, UAVs, Great Lakes screening, and increased funding for Fisheries surveillance.^{xlix} Only in the last few pages of this chapter is port security even mentioned, and it only encompasses approximately one page of the report. It is mentioned that "it is the intention of this report to focus on security in Canada's coastal waters rather than at ports, [but] it is worth noting that Canada Customs and Revenue Agency has introduced a number of improvements to its security at sea ports[.]"¹ Is this concentration on coastal waters, instead of ports, an indication that the government of Canada has the same perception? A handful of port initiatives are mentioned in passing, including passport scanners, ferry terminal benchmarks, the Canada-U.S. Vessel Identification System, targeting containers, container scanners, sharing security tips, and high-risk passengers.^{li} But, if the Senate report does not consider this topic worth mentioning for more than a page, is it even being taken into consideration that port security poses a significant problem to Canada? As noted before, the less secure a target is, the easier it is for terrorists to penetrate it and invoke terror on that state's citizenry.

There are three challenges that the General Accounting Office identified in its testimony to the Subcommittee on National Security, Veterans Affairs, and International Relations House Committee on Government Reform. These challenges are standards, funding, and collaboration.^{lii}

The first issue in this set of challenges is to develop a complete set of standards for all American ports. Because of the variety of ports across the country, the past levels of security have been local issues and have therefore varied greatly from port to port.^{liii} The United States Coast Guard (USCG) has been assigned the task of creating a new set of port security standards. These new standards include "preventing unauthorized persons from accessing sensitive areas, detecting and intercepting intrusions, checking backgrounds of those whose jobs require access to port facilities, and screening travelers and other visitors to port facilities."^{liv} This new set of standards sets in place a firm desired outcome but does not include the manner in which to accomplish these new security measures. That is because the reliance on performance standards "will provide ports with the needed flexibility to deal with varying conditions and situations in each location rather than requiring a 'cookie-cutter' approach that may not be as effective in some locations as it would be in others."^{lv} This is an ingenious approach because, as the report mentions, not all ports are alike in their needs and security liabilities. This allows for the continued economic successes of the ports in which they are not being forced to exchange security for economic objectives. While this sounds like a large task to

undertake, the USCG is using the correct approach to new port security initiatives. This flexible set of security standards will benefit all of the ports to a large degree.

The next challenge involves the funding of the final security standards decided upon by the USCG. “Many of the planned security improvements at seaports will require costly outlays for infrastructure, technology, and personnel.”^{lvi} An estimate of these costs prior to 9/11 was between \$10 million and \$50 million per port and these figures have not decreased since the tragic events of September 11th.^{lvii} Money, as is the case in Canada, is a major concern of the American government. They are willing to designate more money towards security vulnerabilities than Canada because of the terrorist attacks of 9/11, but even they cannot afford to pay for the implementation of the USCG’s new security measures. The burden of port security funding is a concern shared between the “federal, state, and local governments, as well as among private commercial interests [...] to finance antiterrorism activities[.]”^{lviii} The drawback to having the funding shared by so many parties is that there will be controversies over who should pay for which incentive. So while there appears to be more funding available in the United States, there is still a significant question of who is willing to pay for what.

Once the new security measures have been transformed into policy and the funding issues have resolved, there is still the challenge of making the system operate effectively. The many different sectors of labor that comprise the employees of ports must learn to work together if they have any chance of conquering a terrorist threat or security threat. In fact, the General Accounting Offices (GAO) testimony states that “achieving national preparedness and response goals hinges on the federal government’s ability to form effective partnerships among many entities.”^{lix} The practice and testing of security measures is vital for the port to be capable of sustaining a successful counterattack in the event of a terrorist threat. The GAO testimony agrees that “for procedures to be effective when needed they must be practiced and the exercises critiqued so the procedures become refined and second nature to all parties.”^{lx} Without the constant practicing of exercises and training of employees to handle security threats, the measures instituted by the government would be meaningless.

Shortly after the tragedy of September 11th, the government of Canada granted an infusion into new marine security projects. Specifically, on January 22nd, 2003, then-Transport Minister David Collenette announced a five-year plan to infuse the new maritime projects with \$172.5 million.^{lxi} This plan was intended to encourage the increased safety and security measures of Canada’s marine transportation system and maritime borders.^{lxii} Money that was allocated to these new security initiatives was primarily spent on the following initiatives:

- “increasing surveillance and tracking of marine traffic, including ‘near real-time’ identification and tracking of vessels in Canadian waters;
- screening of passengers and crew on board vessels;
- installing new detection equipment in ports to screen containers for radiation;
- new funding for the enhancement of the RCMP Emergency Response Teams and the establishment of permanent investigator positions at major ports;

- enhancing collaboration and coordination among government departments and agencies;
- making further improvements to port security by establishing restricted areas and requiring people working within these areas to undergo thorough background checks; and
- developing and implementing new security requirements in line with recent recommendations of the International Maritime Organization.^{”lxiii}

While this list in itself is quite impressive at first glance, there is an inherent problem within. There are only three vague initiatives dealing with port security. In addition to this list of security measures, there was a presentation of a mobile Vehicle and Cargo Inspection System (VACIS) that is capable of scanning “densely loaded containers and detect suspected contraband, weapons, and other potentially dangerous goods.”^{”lxiv}

Although impressive at first, these initiatives are much more complicated than stated. Systems capable of detecting radiation are important, but that is not the only way that a terrorist can penetrate a port facility with a dangerous weapon. Simply because there is the presence of added RCMP investigators at major ports does not mean that they will be any more effective at containing the threats to Canada’s security. This is even more apparent with the addition of 16 officers who the RCMP brought in as additional investigators but who have not as of yet had the proper training needed for these positions. The establishment of security areas should have been a logical necessity before the tragedy of 9/11. Thorough background checks are a minor way to improve security at port facilities because they are not capable of identifying and anticipating an individual’s thoughts and actions. And while the VACIS is capable of detecting more sophisticated weaponry and goods, how capable is it of detecting simpler but effective weapons such as a chlorine gas weapon? These initiatives still leave many liabilities exposed. With all of this to consider, Mr. Collenette claims that “Canada has one of the safest and most secure transportation systems in the world.”^{”lxv} However, by simply exposing minor problems of these security initiatives, it is apparent that Canada does not have one of the safest and most secure transportation systems in the world.

For the United States, September 11th was a turning point in security measures. “It was realized that seaports were as vulnerable as the airports through which the Sept. 11 attacks originated, and in some cases more so.”^{”lxvi} A mere four months after 9/11, the U.S. Customs Service launched the Container Security Initiative (CSI) that “aimed to tackle the problem of potentially dangerous containers well before they entered the United States[.]”^{”lxvii} This security measure, although straightforward in its purpose, is quite elaborate in practice. The components of CSI include “establish[ing] security criteria to identify high-risk containers, prescreen[ing] those containers before arrival at U.S. ports, technology to prescreen high risk containers, and [...] develop[ing] and us[ing] smart technology to secure containers.”^{”lxviii} This initiative has taken time to implement because of the complexities posed by the request of previously unreleased information on cargo shipments and the initiation of new technology required to satisfy the new security measures. This differs from the Canadian implementation of further funding as in the American plan there are concise directives that simply need to be put into practice, whereas the Canadian incentives have no more than a general security

initiative in vulnerable areas. However concise this security initiative is, it still does not directly address the port security vulnerabilities in the United States.

Transport Canada released the Marine Transportation System Report in January 2004. According to Transport Canada, "Canada has an effective marine security system capable of adapting quickly to new demands."^{lxxix} While the Standing Senate Committee on National Security and Defense has questioned this in their October 2003 report, there is an important point to take from this report. While there is recognition that marine security must be balanced with the maintenance of the free flow of trade and people, there is no mention of port security. How are these goods being sent and received? How are these people exiting and entering the country? While coastal security is essential to Canada because of its vast and largely under-defended coastline, port security is a large part of marine security. These ships would have no business in our waters if they were not transporting people and/or goods. While increasing security measures, the government of Canada and Transport Canada both agree that these initiatives have certain objectives to fulfill. These objectives are to keep terrorists out of Canada; deterring, preventing, detecting, prosecuting and/or removing terrorists; facilitating Canada-U.S. relations; facilitating international initiatives; and protecting our infrastructure and improving emergency planning.^{lxxx} Port security most certainly can help the government achieve these objectives more effectively, but is not given the same prominence as marine security.

Both Canada and the United States have created marine transportation security acts within the last decade. In Canada, the Marine Transportation Security Act was created in 1994 and has not been updated.^{lxxxi} Transport Canada released the Marine Transportation System Report in 2004, however it is not a modification of the 1994 Act. The United States, on the other hand, instituted the Maritime Transportation Security Act on November 25, 2002.^{lxxxii} This act is a direct result of the events that transpired on 9/11 and the subsequent importance placed on homeland security. Though these two security policies have similar names, they have entirely different objectives.

The Government of Canada established the Canadian Marine Transportation Security Act in 1994.^{lxxxiii} One question that immediately comes to mind is why it has not been updated. Has this Act not been updated because the government of Canada does not believe that any of its contents should be modernized? It has been over three years since 9/11 and yet there have been no revisions, no amendments, and no changes to this act. The Act does refer to port security briefly. However, the greatest threat to ports is organized crime.^{lxxxiv} The report does not recognize any other immediate or long-term threats. This should be updated because Canada's vulnerabilities, both maritime and port, have had media coverage and recognition. With the type of threats we face today, this report cannot be useful because it is not even up-to-date with the different types of threats to Canada's marine security. According to the Act, the Transport Minister has sweeping powers over marine security and ultimately is responsible for the majority of the performance of the government in this area.^{lxxxv} The problem with this is that the Transport Minister may not understand the threats that face the country, as well as the correct security measures to institute in order to minimize our vulnerabilities. The consequences of breaking any of the regulations set out in this Act are minimal and would hardly deter a terrorist.^{lxxxvi} By evaluating the challenges to Canada's maritime and port security, as well as the effectiveness of Canadian surveillance over its waters and

coasts, the risk of these fines would be well-worth the potential reward. Overall, this Act is obsolete in view of the new threats to Canada's security and should be revised or rewritten.

In comparison, the American Maritime Transportation Security Act was instituted a little more than a year after 9/11.^{lxxvii} This Act places an emphasis on port security. In fact, twelve of the first thirteen sections describe in great detail the necessary improvements and new security measures in port security.^{lxxviii} The emphasis on port security is essential because, as the report states in the first point of its findings, there are 361 ports in the United States.^{lxxix} The Government of the United States recognizes that “[p]orts are often very open and exposed and are susceptible to large scale acts of terrorism that could cause a large loss of life or economic disruption.”^{lxxx} Not only does the government recognize the importance of ports and their vulnerability to terrorist threats, this Act also acknowledges that the current standards are not adequate. “Current inspection levels of containerized cargo are insufficient to counter security risks. Technology is currently not adequately deployed to allow for the nonintrusive inspection of containerized cargo.”^{lxxxi} The American government recognizes that “[s]ecuring entry points and other areas of port facilities and examining or inspecting containers would increase security at United States ports.”^{lxxxii} By stating the obvious facts regarding port security, the American government is better able to state its intentions and create more focussed security policies compared to the Canadian government. However, the American government recognizes the threat posed by people as well as containers. The cruise ship industry is considered a risk but not as large a concern as port personnel.^{lxxxiii}

The essence of the American act can be consolidated into the following points:

- “[t]he secretary of Transportation conduct a risk assessment of all vessels and facilities on or near the water to identify those at high risk of attack or accident[;]
- [n]ational and area maritime transportation security plans be developed[;]
- [a]ll ports, facilities and vessels develop comprehensive security plans and that these be approved by the U.S. Coast Guard[;]
- [l]ocal port security committees be set up to better coordinate the efforts of federal, state, local, and private law enforcement bodies, including intelligence agencies, the FBI, Customs, Immigration, and the U.S. Coast Guard[;]
- [t]he Transportation Department develop regulations for secure areas in ports, including identification cards[;]
- \$90 million be awarded in research and development grants for better customs inspection of ships entering the United States[;]
- \$33 million be awarded for the development of security training and for the education and certification of security personnel[;]
- [a] maritime intelligence system be developed and reporting of crew, passengers, and cargo be improved[;]
- [c]ommercial vessels be equipped with an automatic identification system so that vessels are able to be tracked in U.S. waters[;]
- [t]he Sea Marshal program be authorized [and]

- [t]he U.S. Coast Guard be authorized about \$6 billion dollars for the 2003 fiscal year.^{lxxxiv}

Even though there remains the challenge of funding these new security initiatives, there are concise goals for the policy creators to follow. Out of the eleven objectives listed above, eight are related to port security. This is significantly higher than Canada's Maritime Transportation System report and the Marine Transportation Security Act (which does not mention terrorist threats to security at all). Clearly, the American government is far more dedicated to port security than the Canadian government.

There are those who disagree with some of the security measures that are being introduced. Thomas Walkom, a journalist for the Toronto Star, is just one of those people. He does acknowledge that there was "little police presence and virtually no inspection of arriving cargo" which made Canadian ports ideal targets for drug smuggling.^{lxxxv} Walkom also states that there has been pressure from the United States for Canada to tighten up the security at its borders.^{lxxxvi} However, he does not agree with security policies that have been proposed to solve certain primary security concerns. "Rather than spend money to check more incoming cargo, the federal government is proposing intrusive security checks of those who work at sensitive areas in the ports[.]"^{lxxxvii} The proposed screening program would check the criminal activity of the employees through the RCMP databases and the Canadian Security and Intelligence Service (CSIS) databases, perform credit checks, and perform background checks for the families of the port employees.^{lxxxviii} To Walkom, the capacity of these new security requirements to heighten security at Canadian ports is incomprehensible. He states that "the vast bulk of what people do is none of {the government's} business."^{lxxxix} This is another example of the inadequate security measures proposed by the Canadian government in relation to the new terrorist threats.

While the American government has succeeded in implementing many of their security objectives by the July 1st, 2004 deadline for instituting the ISPS Code, Canada has taken a different approach.^{xc} At the Association of Canadian Port Authorities Conference in February 2003, the Solicitor General of Canada read from a prepared statement. One of the more interesting points from this speech is that while the Solicitor General recognizes that terrorism "remains an unremitting global threat" and that our "like-minded allies have been identified as potential targets[.]" he still assures the public that "the overall threat of an attack against Canada has been assessed as low[.]"^{xcii} He announces in his speech that certain measures in marine security have been planned well and have a budget allocated for their success.^{xciii} However, Wayne Easter, the Solicitor General, does not broach the subject of whether the initiative phases of these measures have even been successful. And even in his assessment of security risks and security policies to minimize the risks, there is hardly any mention of new port security initiatives.^{xciii} This is quite ironic given that he is speaking at the Association of Canadian Port Authorities/Government Interface Conference. In fact, the sole new security measure at Canadian ports is the addition of RCMP investigators whose primary focus is to enhance the RCMP's Border Integrity Program.^{xciv} Ports are not, according to Easter, inherently in need of specific security measures. Instead, port security measures must be "integrated into a larger border strategy."^{xcv} Again, the Canadian government does not seem willing to identify and minimize port security liabilities that leave us vulnerable to terrorist attacks. Easter presents the argument that terrorism is not the sole

threat to Canada and that the new security policies will, fortunately, help the government combat Canada's other "concerns."^{xcvi} Terrorism is not the sole threat posed to Canada, however there is hardly any recognition by the Canadian government that this is a definite concern to them. Combating domestic crime receives attention in this article and the safety of Canada's communities in dealing with problems such as family violence, school problems, and drug abuse is stated to be essential to maintaining security in Canada.^{xcvii} This is a noble goal of the government, but how does this deter a terrorist? Simply because family violence statistics are decreasing is not any measure of how safe Canada, and specifically its ports (because this is a Port Authorities conference), are from potential terrorist attacks. And while port security and the anti-terrorism plan are mentioned in Easter's closing statements of his speech, he gives no reassurance that port security is a top priority or even a priority in general to the Canadian government.^{xcviii} This only further demonstrates that port security, to Canada, is simply not as vital to us as our neighbors to the south believe. Port security has been tucked into national security plans that also deal with human security issues, as well as being folded quietly into marine security. Even at a conference where port security measures and vulnerabilities should be addressed, there is little emphasis on exactly how vulnerable we are at our ports.

The preceding evaluation has concentrated on evaluating and detailing security measures that have been proposed and undertaken by both the United States and Canada. The question now becomes where does this leave us? What have we learned? From these documents, certain details are apparent.

In the case of Canada, there are many new and different security policies, as well as budgeting for these policies, but there has been no real assessment of the success of any of these measures. This could be in part because there is not a concrete deadline for these security initiatives to be implemented. Part of this problem could be because there are no specific Acts dealing with port security liabilities and solutions. Instead, the issue of port security has been tucked away in other marine security evaluations or national security generalizations. With such a loose commitment to port security, is it any wonder that there are concerns about our country's safety? Any mention of the vulnerabilities at Canadian ports is generalized as if to over-simplify the inherent problems. And while a select few of the new security initiatives deal with port security, none of these new security procedures have detailed objectives and directions compared to the United States policies. The government has not even updated the Marine Transportation Security Act that was released in 1994. The government of Canada appears impervious to the threats even given the evidence of our vulnerabilities. This shows that they are not as concerned with the terrorist threat as we are made to believe. We are a target of terrorism because of our close proximity to the United States geographically, economically, culturally, and militarily. Does this mean that the Canadian government, and Canadians themselves, as invincible in the face of this type of attack? History can teach us that this is a faulty attitude for two reasons. The first is that this was the same attitude that the Americans harboured for many years until the tragedy of September 11th. The second is that Canada has already been the victim of a terrorist attack in June 1985. If indeed we believe these threats are inconsequential to our security, then we face greater security risks than the Americans did. Is the Canadian government hoping that this threat will disappear if we simply concentrate on other areas of security that are more relevant in our minds? Just

because we have not fully acknowledged the threat from terrorism does not mean that it does not exist. In fact, this is a very dangerous standpoint because we cannot begin to minimize our security risks until we have fully accepted that there are significant vulnerabilities. However, even if we accept that our nation's ports are vulnerable and we create many effective security measures to minimize these liabilities, there would still remain the issue of money. How would the government be able to pay for these new measures? Funding would not be readily available because the government does not have massive amounts of extra money to put towards many necessary programs, let alone security issues. By looking at the 1994 Canadian White Paper, a central idea emerges. The government of Canada considers our defenses adequate enough that they can afford to cut defensive spending. There have been no amendments to the current White Paper. The current Canadian government is proposing a new Defense White Paper, but simply saying that they are evaluating the necessity of such a document does not mean that it will be implemented, let alone beneficial to our current security dilemma. By evaluating all of these issues, a common problem is evident. Because the government of Canada is not taking potential terrorist threats to our ports seriously, we leave ourselves vulnerable to many forms of terrorism.

The concern over port security in the United States is an entirely different situation. The United States has a very specific and detailed portion at the start of their latest security report, the Maritime Transportation Security Act. The government has evaluated the risks and vulnerabilities at American ports in great detail. They have come to the realization that direct action must be taken immediately in order to minimize the potential terrorist threats. The security of the country is the government's top priority. This is evident even in their maritime policies regarding the use of U.S. port security personnel to carry out screening of cargo in foreign ports destined for the United States. This example further emphasizes the need for better port security in order to enhance national security. Deadlines have been set and met for many security initiatives and significant advances have been accomplished by July 1st, 2004.^{xcix} The Maritime Transportation Security Act, defined the terrorist threat, analyzed it, and provided solutions to minimize these problems. It is clear that terrorism and national security are primary concerns for the United States government and it is evident in their new security policies. However, the government is still having problems with funding these initiatives. A large part of the problem is that many of these new security initiatives require state of the art technology that is very expensive or, in some cases, the policies are so revolutionary that the technology needed to realize these policies does not yet exist. While the emphasis of American policy is now on national security and the protection of its borders and people from terrorist threats, there still remains a problem. The United States is clearly looking to minimize or eradicate all of their security vulnerabilities. Is that possible to do in the world that we live in today? Would the decrease of security liabilities be a success in the battle against terrorism?

Are there any solutions that would solve the security problems of both countries? It is clear that both countries have funding concerns for new security initiatives. For Canada a large part of the problem is that there is minimal funding available for the current proposed security initiatives, let alone any further measures to tighten security at our ports. In the United States there are countless security initiatives that would significantly decrease the probability of a successful terrorist attack against their ports,

however there is not enough funding in order to implement all of these measures. Would it not be wise for the Canadian and American governments to create a bilateral agreement on the critical security liabilities which would then outline the responsibilities of each country and the security standards they must maintain? With this a small part of the funding issues would be shared and perhaps allow for further security measures to be implemented. This would also provide both countries with a clearer security policy, which would greatly benefit the Canadian government as well as protect American ports from threats originating in Canadian waters. Finally, while the sharing of port security responsibilities is just a suggestion, the potential that this idea has for the security and defense of both countries is well worth further analysis.

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