

Maritime Security: Shield or Sieve?

North America, particularly Canada and the United States, 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 destructive 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 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 our maritime security. This is an area of great concern to both Canada and the United States. Canada has the longest coastline in the world at 243, 772 kilometres and has an area of responsibility of over eleven million square kilometres, which only further exacerbates the issue of maritime security to Canada.ⁱ Both countries are surrounded by water on three sides and they are vulnerable to any threats that enter North American waters. The Honourable Colin Kenny, Chair of the Senate Committee on National Security and Defence, stated in an October 2003 report that “Canada’s coasts are virtually undefended.”ⁱⁱ Since 2001, has the Canadian government accomplished acceptable changes to increase maritime security in order to minimize potential terrorist threats in our waters?

Because of Canada’s vast coastline and immense Exclusive Economic Zone (EEZ), Canadian port and maritime security policies are essential to maintaining Canada’s security.ⁱⁱⁱ Captain Peter Avis states that “[o]n a typical day, there are some 1700 ships in [Canada’s] area of responsibility[.]”^{iv} This figure only represents the ships that report their purpose and destination while travelling through our maritime waters. One can only assume the number of vessels that travel unannounced through our waters. Because terrorists rely on asymmetrical warfare in order to inflict terror against a population, it would only take one unreported vessel in our water to wreak havoc upon our coastline, a major port, or further inland through the St. Lawrence Seaway.

Canada’s economy is also highly dependent upon maritime trade, which adds further complexity to Canadian maritime defence challenges. In 2001 alone:

- 1) [T]he total tonnage in maritime trade was 310 million tonnes;
- 2) The total value to the Canadian economy was 110 billion dollars;
- 3) [T]he total container unloadings was 1.3 million;
- 4) Every year, over one million containers enter Canada and the US unchecked through the ports of Vancouver, Montreal and Halifax.^v

Clearly, Canada’s maritime trade is a crucial element of our economic well-being. To ensure the stability of the Canadian standard of living, maritime security must play a key role in safeguarding our maritime trade.

Maritime security also influences Canada’s capacity to retain its middle power status in the international community. A middle power relies on alliances with other powers (dominant, middle or dependent) in order to gain power in the international system to satisfy its international objectives and political will, or to counter the international objectives of a superpower nation.^{vi} In the case of Canada, its diplomatic negotiations and political objectives are enforced with modest military means in support of their allies and alliance structures to achieve their objective. According to Kim Nossal, Canada relies on middle power diplomacy, which involves “promising an activist and mediatory foreign policy in key areas.”^{vii} A capable maritime defence would

satisfy a key Canadian alliance partner: the United States. The U.S. has called upon Canada to reform its maritime security policies in a manner similar to their own restructuring policies for the safety of the U.S. and North America as a whole. If Canada reassesses its current maritime security policies and makes adequate and necessary changes, it would strengthen our relationship with the U.S. and allow for Canada to further select political objectives. Therefore, maritime security for Canada is significant not only to secure our land, population, and economy, but also to maintain its alliances, especially with the United States.

Maritime security is relevant to Canada in many areas, but how relevant is sea power?

Sam J. Tangredi defines modern sea power as

“the combination of a nation-state’s capacity for international maritime commerce and utilization of oceanic resources, with its ability to project military power into the sea, for the purposes of sea and area control, and from the sea, in order to influence events on land by means of naval forces.”^{viii}

This definition pertains to Canada because it does not solely rely on the use of military force to define sea power. Instead, it emphasizes the importance of maritime commerce and oceanic resources, which are both vital elements of Canada’s maritime position. A modern list of sea power characteristics assembled by modern naval historians includes:

- 1) economic strength,
- 2) technological prowess,
- 3) socio-political culture,
- 4) geographic position,
- 5) dependence on maritime trade and sea resources, and
- 6) government policies.^{ix}

This list is pertinent to Canada’s maritime security and its position in the international system. Canada is in an enviable economic position because it is a member of the G-8 community. Technology is always a concern for the Canadian forces, which is why the Canadian Coast Guard (CCG) is working closely with the U.S. Coast Guard (USCG) to integrate our capabilities. This integration is vital to the increase in CCG’s technological capabilities. The USCG uses increasingly more advanced technology and, therefore, if we are able to integrate our forces, our technological capabilities will increase. Our geographic position is influential in that we are the northern neighbours of the world’s only current superpower and our other three borders are coasts that extend to include our 200-mile EEZ. Canada has a significant dependence upon maritime trade and sea resources. The sea sustains the economy and standard of living in the Maritime Provinces and provides many with jobs and careers. Our maritime trade and G-8 membership prove that Canada relies significantly on maritime trade and sea resources. The Canadian government relies heavily upon maritime trade and sea resources in order to create policies and legislature that will further Canada’s economic and political objectives.

The impacts of globalization have placed Canada and the U.S. at the forefront of sea power because of the inherent struggle with globalization for economic and political power through access to resources and products. The fragility of the international trading systems, especially in North America, validates the importance of maritime forces in this context. Tangredi asserts that “[a] global navy allows a nation committed to global trade to guarantee the free use of trade routes that underlies today’s globalization.”^x It is crucial that Canada maintain its economic prosperity in the international setting. This would include paying particular

attention to Canadian Sea Lines of Communication (or Commerce) because they are often located at choke points. These choke points are relatively narrow passages through straights or archipelagos that are vulnerable to terrorist attacks.^{xi} With a successful attack against a SLOC in Canada's waters, its economic prosperity and standard of living, as well as the security of its population, would be disrupted with considerable repercussions. To maintain the close relationship that Canada and the U.S. share, North American waters must be kept adequately defended and secure. Canada must play a significant role in the defence of its maritime waters, which would appease American concerns of threats entering American waters via Canadian waterways. Tangredi readily agrees with this analysis because he asserts that "by creating a climate of assured security, it can help bind nations together in co-operative military relationships that spread outward to the political and economic areas."^{xii} Clearly, a concise, organized, and effective maritime security and defence strategy would not only be beneficial to Canadian security, but would also spill over into other aspects of Canada's alliance with the U.S.

Both countries maintain a coast guard force and a naval force. However, there are significant divisions in areas of responsibility between the coast guard and navy. These differences also extend to the varying duties performed by the U.S. maritime forces compared to the Canadian maritime forces. It is valuable to analyze these differences and to compare the capabilities of these two countries because they are similar in many aspects of their political, economic, moral, and social values. This type of analysis is also useful because in many areas of security policies the U.S. is more advanced than Canada and they are a useful model to compare to given their elevated security and defence policies post-9/11.

The Canadian Coast Guard is responsible for five fundamental roles:

- 1) maritime safety;
- 2) protection of the marine and freshwater environment;
- 3) facilitation of maritime trade and commerce and maritime accessibility;
- 4) support to marine science; and
- 5) support to Canada's federal maritime priorities.^{xiii}

Clearly, its responsibilities are very vague and therefore can be interpreted in a number of ways. This presents a problem because with such a general and diverse definition of responsibilities, the CCG can be used for almost any threat to Canadian maritime security, whether or not it has the capabilities, simply because it falls into one of their roles. The CCG was confident, even in November 2004, that their vessels are capable of multitasking with professionally trained mariners on board that are capable of fulfilling their fundamental Coast Guard roles in areas of prevention and response.^{xiv} This CCG document also claims that "[t]he men and women of the Coast Guard are trained and conditioned to be ready, willing and able to respond to the task at hand, whatever it may be."^{xv} If this were the case, then the Coast Guard would not require the upgrades that they are attempting in order to be closely integrated with the more advanced USCG system. There is little mention of its increasing role in maritime security post-9/11 except that the role of the CCG "as a source of platform and personnel support to the Canadian security community is now being emphasized."^{xvi} This again is an ambiguous statement leading one to assume that the CCG does not have the resources or manpower capable of undertaking a broad security initiative to prevent or respond to a potential terrorist threat.

The Canadian Navy (CN), on the other hand, appears to adhere to Carl von Clausewitz's theory that war is simply an extension of government policy.^{xvii} In a speech delivered February 27, 2004, the CN defined its two roles to be to do what they "must do to remain relevant to

Canadians” and to “provide government with the greatest range of policy options available.”^{xxviii} In an article written by LCdr George F.C. Kearney, he notes that in Canada’s National Security Policy (NSP), a six point Maritime Security Plan has been created and allotted almost half of the NSP’s total budget.^{xxix} This is a considerable amount of money that the Canadian government is willing to apply to maritime security policies. This money is designated to these new policies on the condition that the CN will increase its roles to include:

- Clarifying responsibilities and strengthening co-ordination;
- Establishing marine security operation centres;
- Increasing CF, RCMP, and Canadian Coast Guard on-water presence, as well as Department of Fisheries and Oceans (DFO) aerial surveillance;
- Securing fleet communications; [and]
- Pursuing greater marine security co-operations with the U.S..^{xx}

Even with this broader mandate for the CN, it still maintains that in the event of an emergency or perceived threat

“the Navy would assume control only when the response demanded is above or beyond the capacity of any other agency to respond, with control handed off to the appropriate organization as soon as it is reasonable to do so.”^{xxxi}

Clearly, the Navy wants to remain an instrument of Canadian national policy to be deployed in other theatres of operations. This is exemplified by the strategic doctrine created by G. R. Maddison in 2001 entitled *Leadmark: The Navy’s Strategy for 2020*. In this extensive document prepared before 9/11, the CN’s responsibilities dominantly revolve around military and diplomatic overseas missions with only a moderate recognition of its constabulary role.^{xxiii} While Maddison asserts that he is revising this document to add its additional roles per the NSP, the CN still conveys the mindset that their forces are for overseas use to provide the government with the means necessary to achieve its political objectives while the CCG stays home and defends the homeland.

There are obvious differences in the roles and responsibilities of the CN and the CCG. The CCG is mandated with a more constabulary role in Canada’s coastal waters, with an emphasis on estate management.^{xxiii} The CN, on the other hand, is tasked with defending Canada’s objectives abroad with little interest in maritime security measures. However, even with a lack of interest, the CN has been allotted further maritime responsibilities to better defend our waters. There must be a distinct and organized co-operative effort between these two forces in order to achieve the NSP’s new maritime security initiatives.

The USCG is unlike the CCG because it works in harmony with the United States Navy (USN) and other foreign naval and maritime forces through training and joint operations^{xxiv}. Its mandate is to

“[continue] to play an integral role in maintaining the operations of our ports and waterways by providing a secure environment in which mariners and the American people can safely go about the business of living and working freely.”^{xxv}

The homeland security role of the USCG is to:

- 1) Protect ports, the flow of commerce, and the marine transportation system from terrorism[;]

- 2) Maintain maritime border security against illegal drugs, illegal aliens, firearms, and weapons of mass destruction[;]
- 3) Ensure that [they] can rapidly deploy and resupply [their] military assets, both by keeping Coast Guard units at a high state of readiness, and by keeping marine transportation open for the transit [of] assets and personnel from other branches of the armed forces[;]
- 4) Protect against illegal fishing and indiscriminate destruction of living marine resources, prevention and response to oil and hazardous material spills—both accidental and intentional[;] and
- 5) Co-ordinate efforts and intelligence with federal, state, and local agencies.^{xxvi}

It is clear that the USCG is in direct support of the USN operations abroad, as well as domestic maritime security issues. Also, their roles and responsibilities are more specific and definitive than the CCG's roles and responsibilities. This allows for a greater co-ordination in response to a potential terrorist attack or emergency. The close integration with the USN also implies that the USCG has adequate resources and manpower in order to satisfy their varying roles and responsibilities. The technology available to the USCG is superior to the technology available to the CCG, which allows it the freedom to pursue a wider range of operations and roles. In general, they appear more organized, effective, and clearly defined than the USCG. This implies that they are more efficient in their maritime security and defence than the CCG is.

The USN, like the CN, is a Bluewater fleet that is capable of operating in international theatres. Their objectives are similar to the CN in that they provide diplomatic and military strength to U.S. political objectives. Overall, the USN and CN are similar organizations in objective and overall theoretical capabilities because both are Bluewater fleets.

Maritime security is specifically the responsibility of the Coast Guard in both Canada and the U.S. with aid to the CCG from the CN if it is necessary. Prior to 9/11, the dominant maritime security tasks for the U.S. and Canada involved estate management at sea. Both countries recognized the importance of estate management and devoted their coastal forces to these duties. Maritime security and defence policies changed once again in the post-9/11 world.

Terrorism has become a mainstream concern for both Canada and the U.S. because the understated vulnerabilities present in their security and defence policies are now unacceptable liabilities and risks that must be addressed. 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.”^{xxvii} The causes of terrorism, according to this same report, can include “political or ideological objectives, religion, nationalism, [or] ethnic separation[.]”^{xxviii} The American definition provided in Ivan Dee's book closely resembles the current Canadian definition.^{xxix} Clearly, the security threat currently involves extremist groups that rely on the use of terror tactics and asymmetrical warfare in order to intimidate and coerce a state and its citizenry.^{xxx} Captain Avis agrees with the Senate Committee on National Security and Defence that terrorists rely on asymmetrical warfare in order to create a level playing field with their more powerful enemies. The 17th Report defines asymmetrical warfare as “warfare that lacks the ‘predictability’ of traditional military thinking [and is] the greatest man-made threat to industrialized societies.”^{xxxi} Terrorism is unpredictable and requires a new security emphasis in North America of “defending against what was once the unthinkable.”^{xxxii} Both Canada and the U.S. identified maritime security to be a dangerous vulnerability that required an evaluation of its

efficacy. According to the Senate Committee, our seaboard is vast and vulnerable with the added offence that it is often neglected.^{xxxiii} The U.S. and Canada have both been targets of terrorism within the last twenty years. Canada was the victim of the largest terrorist attack to date in April 1985 with the Air India bombing that killed 329 people, 289 of which were Canadian.^{xxxiv} The disastrous events that unfolded on 9/11 produced a casualty rate equivalent in ratio to the Air India bombing. Terrorism obviously remains a concern to both countries as they now scramble to minimize significant vulnerabilities in a vast number of areas, one of which is maritime security. Canada continues to be a target for terrorism because of our close relationship with the U.S. and our geographic position. This alone should force Canada to reconsider its maritime security policies and implement changes where necessary. However, considerable problems still remain in both Canadian and American maritime security policies.

There are inherent problems in both the CCG and the CN. Charles Gadula, Director General, Fleet Directorate, Marine Services, CCG has estimated that the CCG would require \$350 million dollars in order to replace the vessels that are currently in use.^{xxxv} This shows that the CCG is having difficulty performing their current roles and responsibilities because of their lack of proper resources. The RCMP and the CN have allocated surveillance duties in addition to their already overextended list of roles and responsibilities.^{xxxvi} The addition of surveillance duties places further strain on a service that has inadequate resources and an overly vague set of responsibilities that include taking most of the responsibility for maritime security.

The CN has its share of funding and surveillance problems as well. Even with the emphasis on an enhanced naval presence in Canadian maritime security in the NSP, it is unable to do so. The current naval vessels are too slow to adequately perform maritime surveillance duties, not to mention that the costs of these operations would far out-weigh the benefits. The Senate Committee on National Security and Defence recommends that the CN would require cutters similar to the to the cutters that the USCG relies on for its coastal surveillance.^{xxxvii} The CN is not enthusiastic to accept its new maritime security responsibilities and still places a greater emphasis on overseas capabilities and operations for its vessels. However, there are other resources that the CN possesses that could be useful for maritime security. These include:

- Infrequent Aurora aircraft coastal patrols that are in desperate need of modernization,
- A High Frequency Surface Wave Radar (HFSWR) pilot program,
- Dismal satellite surveillance capabilities, usually provided by the DFO and very expensive to maintain,
- Sparse Arctic surveillance
- Maritime Coastal Defence Vessels used to train naval reserves,
- And extraordinarily expensive Unmanned Aerial Vehicles.^{xxxviii}

It is clear that alternative CN surveillance resources are either too expensive for the current budgets, are in need of upgrades, or are not readily available because they are simply pilot programs at present. Overall it appears that the CN is not capable of accepting its new maritime security roles, even if they were willing to accept them. Their resources are not adequate to patrol Canada's vast maritime waters and must be upgraded or acquired for the CN to have any positive effect on maritime security.

Captain Avis states that “[w]e simply lack sufficient capability to cope with the asymmetric threats that now seem so obvious in the wake of 11 September.”^{xxxix} He is the Director Maritime Policy, Operations and Readiness for the Chief of the Maritime Staff in the National Defence Headquarters in Ottawa and has considerable knowledge of Canadian domestic

maritime security policies.^{x1} To Captain Avis, maritime surveillance continues to be Canada's most significant vulnerability and must be remedied. This is a dominant concern for both the CCG and the CN maritime responsibilities as well. He agrees with the Senate Committee on National Security and Defence that "the physical assets needed to conduct effective surveillance (the ships, aircraft, radar stations and other collection assets) are limited, and this has resulted in a number of gaps in capability."^{xli} A solution to this problem would be to increase intelligence gathering capabilities, which would increase our knowledge of maritime activities and allow us to better prepare for or respond to an emergency. The terrorist threat is a considerable one, in Avis' mind, and must not be underestimated. The proper restructuring in intelligence gathering and surveillance is critical if Canada is to avoid a potential terrorist threat in our maritime waters. If Canada is not able to co-ordinate its maritime security policies and enforcement, it cannot hope to achieve its goal, according to Avis, "to know what is happening and where in the maritime approaches so we can deal with a potential asymmetric threat before having to react to the consequences of a disaster."^{xlii}

In January 2004 the Interdepartmental Marine Security Working Group (IMSWG) created a report for Transport Canada entitled "Canada's Marine Transportation System."^{xliii} The IMSWG believes that maritime security is critical to Canada because it will "maintain the free flow of trade and people, which in turn maintains the competitiveness of Canada's marine sector and our economic vitality."^{xliv} They also agree that certain areas in maritime security require further security measures in order to diminish the possibility of a terrorist attack. Their report states that Canada's coastal waters are in need of improvement in all activity areas, which include domain awareness, responsiveness, safeguarding, and collaboration.^{xlv} Canada's EEZ is not much more prepared to face potential threats because it only received an acceptable rating in its safeguarding of the area of responsibility while the other three areas were labelled substandard.^{xlvi} This is of great concern because Canada's maritime security is considerably vulnerable to many potential terrorist threats in our waters.

The Canadian government announced an increase in marine security projects in January 2003. The \$172.5 million dollars is to be spent over five years, which averages to \$34.5 million a year.^{xlvii} Then-Transport Minister David Collenette announced in this news release that "Canada has one of the safest and most secure transportation systems in the world[.]"^{xlviii} If this is the case, then the government would not have devoted further funding to maritime security. However, this demonstrates that they are aware of the liabilities in the current system and must make changes to "[protect] our marine infrastructure, surveillance of Canadian waters and improv[e] our emergency response capabilities."^{xlix} In addition to the marine security initiatives involving a 96 hour advanced notice rule, new boarding protocols, and partnering with the U.S. and other countries, this funding would fund projects such as:

- 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 co-ordination 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.¹

This allocation of resources clearly outlined the vulnerabilities stated in the IMSWG report that was published a year after this announcement. The liabilities in Canada's maritime security had not changed significantly in a year's time. This raises concerns that the new funding provided by the NSP to maritime security may be a waste of money and resources as well. The problem is that the new funding being budgeted towards maritime security initiatives does not begin to address the much-needed improvements in existing policies and programs, let alone to fund new programs and initiatives.

The USCG is the branch of the American forces that is directly responsible for U.S. maritime security. Therefore, an analysis of their successes and failures will ascertain whether they are more effective in their policies and programs than the CCG. The United States General Accounting Office (GAO) released three reports between September 2003 and January 2005 analyzing the efficacy of the USCG in its maritime security roles.

The first report released September 9, 2003, asserts that the USCG has made progress in meeting their new requirements set out in the Maritime Transportation Security Act of 2002. Out of 46 new maritime action programs, 42 have been initiated.ⁱⁱ While this is a sign of clear progress and advancement in refining American maritime security, there are five significant concerns that the GAO lists, which include:

- Only a limited number of ports [are] covered by vessel identification system,
- Questions about the scope and quality of port security assessments,
- Concerns related to approving security plans for foreign vessels,
- Potential duplication of maritime intelligence efforts, and
- Inconsistency with Port Security Grant Program requirements.ⁱⁱⁱ

The majority of these concerns deal specifically with port security programs, which indicates that the maritime security programs were well-organized and effective at this time. There is one glaring comparison from this report that can be made to the Canadian maritime security problems. While a dominant issue in Canada is the absence of adequate surveillance and intelligence gathering of maritime information, there is a concern in the U.S. that there is too much intelligence gathering. This leads to overlap of information and intelligence and results in a waste of resources and time that could be applied in other areas.

The July 2004 GAO report concentrates on the implementation of the Automatic Identification System. This system is to be instituted nation-wide and allows the USCG to monitor and track vessels travelling to and through U.S. waters.ⁱⁱⁱ The AIS program is only in its pilot phase and therefore the GAO is not able to make a concise evaluation of it. However, it is still able to identify initial costs of the project and foresee a significant problem. There is a dispute between the federal agencies involved in this new program and MariTEL "over issues including who should have access to the internationally designated AIS frequencies and for what uses."^{iv} Funding for this project is also in contention, but the GAO notes that some port facilities are willing to accept the costs of the construction of this new program if they are allowed to use AIS data in sync with the USCG to further enhance port security.^{iv} This is an innovative new program that would effectively extinguish concerns about the capabilities of the

USCG to have adequate domain awareness and collaboration. This program solves many of the CCG concerns in these same areas, therefore the USCG must actively pursue the implementation of this program to secure the viability of this initiative and greatly diminish potential terrorist attacks.

The report released in January 2005 defines the challenges that the USCG is facing in the post-9/11 environment. A significant concern is that Coast Guard stations “have been unable to meet current Coast Guard standards and goals in the areas of staffing and boats, an indication that stations are still significantly short of desired readiness levels in these areas.”^{lvi} This allows for a better comparison between the USCG and the CCG. Initially it appeared that the CCG was under-staffed and lacking adequate resources to satisfy their responsibilities. The initial impression of the USCG is that this is not an issue, and that the USCG has more than adequate resources and manpower to meet their new roles and responsibilities while sufficiently completing their original maritime security roles as well. This report goes on to prove that this is not the case. The USCG’s strategic plans for the stations in the vicinity of ports have not been updated to include increased security responsibilities, it lacks “specific planned actions and milestones[,]” and it “has yet to develop measurable annual goals that would allow the agency and others to track stations’ progress.”^{lvii} This would drastically affect the USCG’s ability to respond to a potential threat in a timely manner, which was also cited as a problem with the CCG. The USCG is not much more organized than the CCG, it simply has clearly stated objectives that are unattainable because of the disorder at the implementation level. Clearly, the USCG has many problems and issues similar to the CCG that must be corrected if they are to have a positive impact on their respective maritime security programs and policies.

Both Canada and the U.S. have created marine transportation security acts within the last eleven years. The Marine Transportation Security Act of Canada was established in 1994.^{lviii} This document has not been updated, which creates significant problems immediately. The Marine Transportation System Report released by the IMSWG in 2004 is not a modification, amendment, or update of the 1994 Act. The American legislation was introduced as the Maritime Transportation Security Act in November 2002. This act is a direct consequence of the 9/11 attack and emphasizes a concentration on homeland security and defence measures. These policies are vastly different in nature and objectives.

The Marine Transportation Security Act of 1994 has not been updated since it was established. This creates immediate concerns because the maritime security dynamic has drastically changed while the legislation has not. There is no mention of terrorism or asymmetrical threats in this legislation because they were not significant concerns when this document was created. The primary concern of Canada’s maritime security and defence policies was, and officially continues to be, organized crime.^{lix} There are no other foreseeable dangers according to this act, and therefore it only describes the actions and measures to be taken when there is organized crime in maritime waters. The consequences of these criminal actions detailed in this Act are minimal and would hardly deter a terrorist from seeking to achieve its objectives. A simple evaluation of the vulnerabilities in Canadian maritime security combined with the lack of surveillance of Canadian waters and the blatant disregard of any recognized threats not defined as organized crime would be incentive for a terrorist to carry through on its pre-planned goals. Overall, this Act is obsolete. It has nothing to offer to the new maritime security programs and initiatives and must be revised or rewritten if it is to be of any use in furthering Canadian maritime security goals.

The American legislation is not a great deal better than the Canadian Marine Transportation Security Act. Although the Maritime Transportation Security Act was established in November 2002, its title is not entirely accurate. In the introduction of the Act there is considerable attention to the importance of maritime security in the United States.^{lx} The first section entitled “Maritime Transportation Security” forms the basis of the new port security initiatives.^{lxi} While the American government makes a clearer distinction between port security and maritime security than Canada does in its legislation, there are still distinct flaws in the legislation. A main concern is that the new security policies in this Act apply to “all ships in U.S. waters greater than one hundred Gross Registered Tons.”^{lxii} This only pertains to larger vessels travelling in American waters. A potential terrorist attack could just as easily emerge from a small vessel or personal watercraft navigated through U.S. waters. Another concern is that this legislation deals almost solely with foreign vessels in U.S. waters.^{lxiii} This is a dangerous assumption because a terrorist threat might not necessarily emanate from international waters. The 9/11 hijackers were able to gain control of four airplanes that originated from American soil. The delegation of authority solely to the USCG is an unwise law because they are unable to sustain their new responsibilities in addition to their traditional maritime security roles. This document is vague and ambiguous with its new maritime security policies but clear and concise in its new port security framework. While there is more relevant direction and legislation in this Act than the Canadian Marine Transportation Security Act, this does not imply that it is revolutionary or awe-inspiring. It was written post-9/11 and yet has no clear direction in its maritime security policies. They are vague and the legislation is to be enforced solely by the USCG without any consideration of whether it is capable of attaining these goals or not. There is an obvious emphasis on the importance of complying with this new legislation. However, the details are left to be determined by the USCG, which is still experiencing problems in enforcing its new roles and the new legislation.

The U.S. and Canadian governments are aware that there are significant vulnerabilities and gaps in their maritime security defences and policies. To compensate for this, they formed the Bi-National Planning Group (BPG) in December 2002.^{lxiv} The terrorist attacks of 9/11 proved that

“[t]he overall threat to the North American continent from the air, land, and sea has greatly increased, including the potential for the use of weapons of mass destruction delivered by unconventional means, by terrorists or others.”^{lxv}

The threat is real to both countries and the BPG is an answer for some of their maritime security problems. This organization was created to help decrease the gaps and liabilities in maritime security where the CCG and USCG are not able to effectively correct or maintain. The BPG’s activities include:

- Preparing contingency plans to ensure a co-operative, well-co-ordinated response to national requests for military assistance in the event of a threat, attack, or civil emergency in Canada or the U.S.;
- Co-ordinating maritime surveillance and intelligence sharing to enhance overall awareness of potential maritime threats;
- Assessing maritime threats, incidents, and emergencies and advising the two governments;

- Establishing appropriate planning and liaison mechanisms with civilian authorities involved in crisis response, such as police, fire fighters and other first responders;
- Designing and participating in exercises;
- Conducting joint training programs; and
- Validating the practicality and effectiveness of plans prior to approval.^{lxvi}

This program has also been considered a creation of a ‘maritime NORAD’ because the maritime security capabilities of these two countries are not adequate on their own. Air Force General Ed Eberhart, Commander of NORAD and U.S. Northern Command, believes that this is a necessary step because “the [U.S.]’s situational awareness of the sea is ‘not as mature, not as sophisticated, or as elegant as (its) awareness of air space.’”^{lxvii} Canada and the U.S. are similar in many problem areas and defence responsibilities, therefore Canada can be considered in the same mindset as the U.S. when discussing maritime security. General Eberhart’s comment that the U.S. still has “a long way to go” to improve its maritime security can be applied to Canadian maritime security as well.^{lxviii} Phillippe Legasse considers the BPG to be “‘a win-win opportunity,’ noting that the United States’ providing Canada with access to U.S. satellite and radar data increase continental maritime security while saving Canada the cost of building its own comparable capabilities.”^{lxix} This organization appears to be in the best interest of both countries concerned because it lessens a portion of their maritime security deficiencies and adds further dimension to their existing capabilities. The organization was temporarily created for a two-year period to test its validity. On November 29, 2004, both the U.S. and Canada agreed to extend the BPG mandate until May 2006.^{lxx} Clearly this agreement is considered invaluable to both Canada and the U.S. to renew for another two-year term. If it accomplishes its goals and objectives, then it should continue to be carried out in order to better protect Canadian and American maritime security against potential terrorist threats.

Many experts emphasize the importance of adequate, reliable, and effective maritime security defences for North America. Captain Avis states that “[i]t has become apparent to everyone that the vulnerable North American ports and seaways could be prime targets for a future terrorist attack.”^{lxxi} Maddison of the CN agrees that “maritime issues are at the heart of our economic and defence considerations.”^{lxxii} These two argue that Canada’s economic prosperity, social stability and military defence are potential targets for terrorists who rely on asymmetrical warfare techniques. In Captain Avis’ opinion “the only way to move forward is together with combined military and civilian departmental confreres inside each country.”^{lxxiii} The creation and maintenance of the BPG plays a key role in the integration of civilian and military organizations within and between both countries. This leads to an overall increase in their maritime security capabilities and a decrease in their vulnerabilities because they are receiving assistance in areas where they are lacking efficient organization and implementation of defence policies. Canada can no longer afford to approach its maritime security and defence solely through the use of the CCG, as the Senate Committee on National Security and Defence argues it should. Its recommendations advise the federal government to:

- Transform the Canadian Coast Guard into an independently funded agency with its own carefully crafted mandate.
- Make the Canadian Coast Guard responsible directly to Parliament. The CCG will carry out its current duties – search-and-rescue (SAR),

- fisheries enforcement, environmental protection, navigational aids, marine safety, and the like – plus new duties under maritime security.
- Co-ordinate all appropriate resources – Canadian Navy, Canadian Coast Guard, Air Force, Army, Citizenship and Immigration Canada, Canada Customs and Revenue Agency, police forces and agencies responsible for intelligence and satellite surveillance – to improve the maritime security of Canadian coastlines.^{lxxiv}

The Senate is recommending a transformation of the CCG into a duplicate of the USCG system. However, the USCG is not in a much superior position to the CCG. They face many of the same obstacles, inadequate policies and legislation, and defence liabilities. Also, their final recommendation to co-ordinate all resources resembles a Canadian version of the BPG. However, since Canada is already involved in the BPG, a separate Canadian organization might over-extend Canada's already sparse resources and personnel, not to mention that the legislation to implement these measures would entail numerous drafts, considerable funding, the impossible co-ordination expected of all the forces, and the always-evasive patience of the Canadian public. This is not a feasible option. However, the importance of Canadian maritime security cannot be under-estimated. It is not only for the protection of Canadians and their quality of life. It remains an issue for our neighbour to the south. While the U.S. has not publicly announced that it would violate Canadian sovereignty in the event that they felt threatened by a potential terrorist attack, General Eberhart has used strong diplomatic language to imply as much. “[T]he issue is not something the United States ‘could or wants to force on our neighbours.’ But, to not consider such an agreement ‘and not address it would be a mistake[.]’^{lxxv} Canadian experts in maritime security recognize this as well. Joel Sokolsky, Dean of Arts and Professor of Political Science at the Royal Military College of Canada, emphasizes the implications of U.S. Homeland Security Maritime Policies for Canada in his paper time and again. He states that “[i]n efforts to enhance the maritime security of the United States, there are no boundaries.”^{lxxvi} Canadians must keep pace with the Americans in maritime security in order to avoid an intrusion upon our sovereignty, as well as deter many potential terrorist threats.

In the final analysis, it is clear that maritime security plays a vital role to Canada and the U.S.. Both depend upon maritime security to secure economic prosperity and trade in addition to the defence of its citizens and territory. This heavy reliance upon maritime security places considerable pressure on the policies and the agencies responsible for implementing these policies and maintaining the defences. To this end, Canadian and American maritime security policies and deficiencies are quite similar in many respects. Both rely on their Coast Guard forces to provide the security and defence for their maritime waters. Neither the CCG nor the USCG has the necessary resources or manpower to fulfil either their traditional responsibilities or their new roles in the post-9/11 environment. Even if these problems could be remedied, the legislation in place to guide these organizations is vague, outdated, and over-estimates their capabilities. In addition to these obstacles, once the legislation has been created, the governments are not willing to hold themselves responsible for any subsequent vulnerabilities or mistakes incurred because they have passed on the responsibilities to their Coast Guard organizations.

The importance of maritime security to Canada cannot be under-stated. With the possibility of a terrorist attack in Canadian maritime waters elevated by our geographic position, Canada must continue to not only reform its policies to suit the changing environment, but it must also take the initiative and change its political rhetoric into observable action. Canada has

undertaken a series of what appear to be considerable reforms of its programs and policies in order to create a more uniform, capable maritime defence position. This shows that the Canadian government recognizes the threat to its maritime security and holds it in higher regard than its airport security policies and port security policies. Even with these new policies implemented by the NSP, Transport Canada, and the IMSWG, Canadian maritime security still contains large vulnerabilities. The most significant of these vulnerabilities is the lack of adequate surveillance and intelligence-gathering capabilities. Without proper funding, however, these vulnerabilities will continue to plague our maritime security and defence policies. There are also problems with the current legislation simply because it is not applicable to the current security environment. The Marine Transportation Security Act must either be revised or rewritten for it to have any effect on maritime security. Canadian participation in the BPG demonstrates a commitment to a unified and efficient Canadian maritime security policy. It was a wise decision to renew the mandate until 2006 because this organization assists Canada by keeping its security costs down while increasing its surveillance, intelligence, and capabilities. This relationship is of the utmost importance to Canada because without it, the significant gaps and vulnerabilities present in our maritime security defences and policies would be an easy target to terrorists in the future. The Canadian government has implemented positive changes to increase Canadian maritime security capabilities. However, this is only a first step in an ongoing process that will continue to challenge Canadians for years to come.

The U.S. is not as advanced in its maritime security defences and policies as many believe them to be. Their Coast Guard organization is similar to the CCG in many of their problems and deficiencies. The Maritime Transportation Security Act is not concise in the roles of the USCG. Instead, it places the full responsibility of maritime security and defence in their hands, leaving them to make decisions that can have drastic effects upon the nation's citizenry and economy. In this manner, if the USCG fails, the government can claim that it is was not liable for any of the incorrect actions taken. This is not the co-operative environment that both governments advocate is essential to enhanced maritime security. The U.S. is also a member of the BPG. The participation in this organization decreases its vulnerabilities to terrorist attacks similar to the benefits it attaches to Canadian maritime security and defence. Many U.S. agencies, organizations, and its government take American maritime security very seriously. Even with the inherent problems and liabilities, there is no under-estimating the importance of maritime security to the U.S. and its continued promise to protect itself from any potential terrorist threat with little consideration given to cost or repercussions of its actions.

There remains one consistent dilemma that must be addressed if Canadian security is to become more efficient overall. This dilemma is the attitude of the Canadian public in dealing with potential threats to their society and security. The Senate Committee on National Security and Defence 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."^{xxvii} This type of attitude creates problems when dealing with security matters because with such a complacent attitude, security policies and threat assessments cannot be accurate. This is an enormous hurdle that the Canadian government must overcome in order to create enhanced security and defence policies for our coasts and maritime waters.

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- ⁱ Captain Peter Avis, "The Terrorist Changed the Battlespace-Surveillance and Canadian Maritime Domestic Security," The Conference of Defence Associations Annual Graduate Student Symposia, Royal Military College of Canada, October 24-25, 2003, <<http://www.cda-cdai.ca/symposia/2003/avis.htm>> (April 14, 2005), 3.
- ⁱⁱ The Honourable Colin Kenny, Chair, Senate Committee on National Security and Defence, "Who's Guarding our Coasts? Here's a hint: It isn't the Navy But we could develop an effective Canadian Coast Guard," Excerpts from the 17th Report of the Senate Committee on National Security and Defence, Canadian American Strategic Review, July 2004, <<http://www.sfu.ca/casr/ft-senate2.htm>> (April 14, 2005).
- ⁱⁱⁱ There is a difference between port security and maritime security. Port security involves the security and defence of a city or town on a waterway with facilities for loading and unloading ships or allows a ship or boat protection from bad weather conditions. <<http://dictionary.reference.com/search?q=port%20>> (April 16, 2005). Maritime security involves the security and defence of ship navigation or commerce across navigable waters. <<http://dictionary.reference.com/search?q=maritime>> (April 16, 2005).
- ^{iv} Captain Peter Avis, "The Terrorist Changed the Battlespace-Surveillance and Canadian Maritime Domestic Security," The Conference of Defence Associations Annual Graduate Student Symposia, Royal Military College of Canada, October 24-25, 2003, <<http://www.cda-cdai.ca/symposia/2003/avis.htm>> (April 14, 2005), 3.
- ^v Captain Peter Avis, "The Terrorist Changed the Battlespace-Surveillance and Canadian Maritime Domestic Security," The Conference of Defence Associations Annual Graduate Student Symposia, Royal Military College of Canada, October 24-25, 2003, <<http://www.cda-cdai.ca/symposia/2003/avis.htm>> (April 14, 2005), 3.
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- ^{viii} Sam J. Tangredi, "Sea Power: Theory and Practice," *Strategy in the Contemporary World: An Introduction to Strategic Studies*, (Oxford: Oxford University Press, 2002), 114.
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- ^x Sam J. Tangredi, "Sea Power: Theory and Practice," *Strategy in the Contemporary World: An Introduction to Strategic Studies*, (Oxford: Oxford University Press, 2002), 132.
- ^{xi} Sam J. Tangredi, "Sea Power: Theory and Practice," *Strategy in the Contemporary World: An Introduction to Strategic Studies*, (Oxford: Oxford University Press, 2002), 123.
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