

Bringing the Transgovernmental In:
Public Administration in the Context of Globalization

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Introduction¹

This paper examines an oft-overlooked dimension of Canada-United States relations: relations between Canadian and American public servants. Meetings between political leaders of Canada and the US may make front-page headlines, but it is the myriad networks and interconnections between Canadian and American public servants that constitute the lion's share of bilateral activity. Notwithstanding the multitude of daily bilateral inter-departmental and inter-agency interactions, there has been relatively little systematic theoretical or empirical attention to the public sector dimension of Canada-US relations. Public administration scholars tend to train their sights on the domestic level and pay little or no attention to the public management dimension of international affairs. Indeed, a recent edited volume studying contemporary public administration does not contain a single chapter examining these relations.² International relations scholars, meanwhile, tend to oversimplify domestic politics and policy institutions.³

This text offers a modest contribution to bridging this gap in the literature. Utilizing the concept of transgovernmentalism – relations between legislative, executive, regulatory and judicial players with their international counterparts⁴ – it develops a typology of mechanisms and processes by which public sector players interact across borders (e.g., informal relations, formal agreements, joint institutions, etc.). It seeks to develop hypotheses respecting the prevailing pattern of public sector relations across policy fields or issues (e.g., transportation, defence, health, etc.). Focusing on the Canada-United States relationship, it employs a case study methodology to begin to test these hypotheses in the energy sector.

The paper proceeds in three sections. The first draws from the literature on globalization, integration, and transgovernmental relations to establish a conceptual framework and to propose a number of modest hypotheses respecting the pattern of transgovernmental relations that prevail across policy fields or issues. I propose that three key considerations shape transgovernmental relations: the degree and nature of bilateral interdependence in the policy field under investigation, the main focus of bilateral relations in the field (e.g., information sharing, policy harmonization, joint operations, etc.), and the presence or absence of crisis or urgency in addressing bilateral matters in the policy domain.

¹ Over the past year, I have had the pleasure of serving as an academic representative on the Canada School of Public Service's *Action Research Roundtable on Managing Canada-United States Relations*. The Roundtable, composed of approximately two dozen senior public officials, seeks to further understandings of the intergovernmental dimension of Canada-US relations, particularly bilateral relations between Canadian and American public officials. While my thinking has been informed significantly by my participation in the Roundtable, responsibility for any errors of interpretation or fact is mine alone.

² Christopher Dunn, ed., *The Handbook of Canadian Public Administration*. (Toronto: Oxford University Press, 2002).

³ G. Bruce Doern, Leslie A. Pal, and Brian W. Tomlin, eds., *Border Crossings: The Internationalization of Canadian Public Policy* (Oxford University Press: Toronto, 1996), 5.

⁴ Anne-Marie Slaughter, 'The Real New World Order,' *Foreign Affairs* 76, 5 (1997), 183-197.

The second section of the paper begins to test these hypotheses in energy policy and regulation. There has been considerable focus on Canada-United States relations in this sector. The Canadian and American energy markets are increasingly integrated and the US market can hold considerable opportunity for Canadian energy market players. It is a qualified opportunity, though, in the sense that a number of political and policy issues can generate tension in Canada-US energy relations. The pattern of public sector relations across the oil, natural gas, and electricity sectors underscores the influence on transgovernmental relations of the three key variables examined in this paper: the degree and nature of bilateral interdependence, the main focus of bilateral relations, and the presence or absence of crisis. In the final section, I briefly discuss a number of issues and implications of this paper, suggesting potential lines of future research inquiry and empirical investigation.

Globalization and Public Administration: Bringing the Transgovernmental In⁵

Scholarly inquiry examining the influence of globalization on public administration has tended to focus on questions of public policy over those of public management. Analyses generally investigate the means by which globalization challenges national governments' domestic policy capacity. Scholars query the challenges globalization poses for domestic policy-makers through, broadly speaking, its influence on institutions, interests and instruments. Globalization can influence institutions by, for example, increasing the importance of supranational institutions and interstate negotiations in domestic policy formation.⁶ In the realm of interests, globalization can bring new political pressures to bear on nation states through the political advocacy work of transnational or international civil society organizations.⁷ And with regard to instruments, it can lead to the loss or weakening of policy instruments due to international trade agreements and the forces of economic integration.⁸

These analyses tend to inquire into the means by which globalization weakens state policy capacity and/or exposes national governments to an increasingly broad range of actors, processes, and institutions. In a field analysis on globalization and Canadian

⁵ This section draws on a literature review prepared in 2003 by the author for the Canadian Centre for Management Development's *Action Research Roundtable on Managing Canada-United States Relations*.

⁶ See, for example, G. Bruce Doern, 'Towards an International Antitrust Authority? Key factors in the Internationalization of Competition Policy,' *Governance* 9, 3 (1996), 265-286; D. Esty and R. Mendelsohn 'Moving from National to International Environmental Policy,' *Policy Sciences* 31, 3 (1998), 225-235, and D. Vogel, 'The Globalization of Pharmaceutical Regulation,' *Governance* 11, 1 (1998), 1-22.

⁷ See, for example, Steven Bernstein and Benjamin Cashore, 'Globalization, Four Paths of Internationalization and Domestic Policy Change: The Case of Eco-Forestry in British Columbia, Canada,' *Canadian Journal of Political Science* 33, 1 (2000), 67-99; R.M. Campbell and Leslie A. Pal, *The Real Worlds of Canadian Politics: Cases in Process & Policy*, 3rd ed. (Peterborough: Broadview Press, 1994), Chapter 4; S.J. Kobrin, 'The MAI and the Clash of Globalizations,' *Foreign Policy* 112 (1998), 97-109, and R. Price, 'Reversing the Gun Sights: Transnational Civil Society Targets Land Mines,' *International Organization* 52, 3 (1998), 613-644.

⁸ See, for example, Grace Skogstad, 'Agricultural Policy,' in G. Bruce Doern, Leslie A. Pal and Brian Tomlin, eds., *Border Crossings: The Internationalization of Canadian Public Policy* (Toronto: Oxford University Press, 1996), 145-166, and Linda Weiss, *The Myth of the Powerless State* (Cambridge: Polity Press, 1988).

public policy, Skogstad suggests a number of essential lines of research inquiry, including questioning assumptions about the precedence of the domestic policy-making arena and examining the role of transnational networks.⁹ She maintains, ‘With the emergence of sites and modes of policy making that extend beyond public authorities to embrace private actors, and trespass the local and supranational spheres, domestic policy analysts must train their sights beyond Canada’s borders to an unprecedented extent.’¹⁰

But policy analysts are not the only ones who look beyond Canada’s borders to an unprecedented extent – public managers increasingly do so as well. What’s more, not only do public managers ‘train their sights’ beyond Canada’s borders, they increasingly *manage* across borders as part of their daily activities. The number of formal and informal cross-border contacts that public servants initiate, respond to, and maintain is staggering.¹¹ And this activity is not limited to those working in the Department of Foreign Affairs – it is line department and agency officials across virtually every portfolio making contact with their counterparts in foreign jurisdictions. This has led to changes in intra-bureaucratic relations, chiefly increasingly dense relations between line departments and the Department of Foreign Affairs. Indeed, Doern, Pal and Tomlin’s study of the internationalization of Canadian public policy examined changes to intra-bureaucratic relations as one of the main through-lines of the research, particularly the growth in relations between line departments and the then Department of Foreign Affairs and International Trade.¹² This is not unique to Canada. In the United States, functional departmental/agency activity at the international level appears to be on the rise, while activity levels of the foreign service, measured in terms of human resources, are on the decline: a 1998 report of the General Accounting Office showed that the total number of American personnel in diplomatic missions had remained relatively steady over the previous decade, but that the proportion from domestic agencies had grown by twenty-five percent while that from the State Department had declined.¹³

And yet, as noted at the outset of this paper, there is scant theoretical or empirical attention in Canadian public administration scholarship to the patterns, structures and processes of public servants’ cross-border activities. Much of the research on the cross-border activities of the public sector has been undertaken in the European context. There, questions regarding public sector relations in the European Union (EU) have found expression in the debate over the degree to which the integration process is driven at the intergovernmental level (i.e., by EU member states through such mechanisms as the Council of Ministers) or at the supranational level (i.e., by the three main EU institutions

⁹ Grace Skogstad, ‘Globalization and Public Policy: Situating Canadian Analyses,’ *Canadian Journal of Political Science* 33, 4 (2000), 805-828.

¹⁰ Ibid.

¹¹ In the deliberations of the *Action Research Roundtable on Managing Canada-US Relations*, numerous public officials stated that it would be a near impossible task to fully catalogue or comprehensively track cross-border activity by Canadian public servants with their US counterparts.

¹² Doern, Pal and Tomlin, *Border Crossings*.

¹³ As quoted in John Kincaid, ‘The International Competence of US States and Their Local Governments’ in Francisco Aldecoa and Michael Keating, eds., *Paradiplomacy in Action: the Foreign Relations of Subnational Governments*. (Portland: Frank Cass, 1999), 123.

– the Commission of the European Communities, the European Parliament and the European Court of Justice).

Moravcsik, for example, studies the degree of influence of public officials at the supranational level on the regional integration process.¹⁴ He finds that the capacity for ‘international bureaucrats’ to shape outcomes in negotiations is highly contingent on domestic circumstances in EU member states, thus supporting the intergovernmental thesis. ‘National governments [remain] able and willing to act as entrepreneurs, nearly always rendering the efforts of international officials redundant, futile or counterproductive. The binding constraint on EC bargaining outcomes lies instead in the underlying demand for cooperation, that is, the societal purposes and relative power that states themselves bring to the negotiating table.’¹⁵ Supranational entrepreneurs emerge from Moravcsik’s analysis not as drivers of the integration process, but as *facilitators of transnational coordination*, uniquely positioned to help mobilize domestic and transnational nonstate actors and to advance proposals blocked by national governments because of failures of coordination at the domestic level. He stresses, ‘This ability is an attribute of *institutions not individuals*, and follows from the superior administrative coherence, political autonomy, and centrality in transnational networks of supranational officials.’¹⁶

Moreover, scholars examining the integration process in the EU have argued that the process has had much more dramatic effects on national policy than it has on public sector institutions.¹⁷ National administrative structures are said to be ‘resilient’ in the face of strong pressures toward convergence. As Bulmer and Burch assert in their comprehensive study of the United Kingdom in the European Union, ‘[EU] membership has brought new issues onto the agenda, altered the terms of the debate concerning established issues, given whole areas of policy a European dimension, required the development of new expertise on the part of officials and ministers, involved extensive and intensive negotiations with EU partners, and raised significant problems about policy presentation and party management. *Yet at the level of machinery, governmental structures and procedure, the impact of Europe has been far less evident ...*’¹⁸ Jordan challenges this perspective, arguing that the integration process can fundamentally alter government departments’ attitudes and expectations by forcing them to re-evaluate their understandings of the ‘outside world.’¹⁹ These changes can lead them to modify their internal structure and procedures, can influence the policy positions they advance at the EU level, and can influence the evolution of national policy in response to EU policy.

¹⁴ Andrew Moravcsik, ‘A New Statecraft? Supranational Entrepreneurs and International Cooperation’, August 1998. <http://globetrotter.berkeley.edu/irforum/papers/moravtp.html>

¹⁵ Moravcsik, ‘A New Statecraft?’, 30.

¹⁶ *Ibid*, emphasis added.

¹⁷ Andrew Jordan, ‘The Europeanization of National Government and Policy: A Departmental Perspective,’ *British Journal of Political Science*, 33 (2003), 261.

¹⁸ Simon Bulmer and Martin Burch, ‘Organizing for Europe: Whitehall, The British State and European Union,’ *Public Administration*, 76 (1998), 624. Emphasis added.

¹⁹ Jordan, ‘The Europeanization.’

Notwithstanding the emergence of scholarship on cross-border or supranational public service activities in Europe, the extent to which these analyses can be adapted to the Canadian-American context may be limited. The Canada-US relationship is neither characterized by formal political integration nor by strong broad-based supranational institutions. While Canada and the United States share a number of bilateral institutions (e.g., the International Joint Commission), their mandates tend to be more narrowly circumscribed, both in terms of the extent of their decision-making power and in terms of the breadth or scope of their activities. Moreover, where broad-based supranational institutions such as the North American Free Trade Commission have been created, they tend not to be active or strong institutions.²⁰

Having said this, research examining the influence of European integration on the public sector suggests fruitful lines of investigation for the Canadian-American context. Among potential research questions are the following: What is the influence of Canada-US economic integration on the machinery and processes of the public service, and the attitudes of public servants? Do these changes influence national policy-making? If so, how? What are the role and influence of public servants in broader networks of public and non-governmental actors in the domestic and international environments? This paper aims to begin laying the groundwork to pursue these and other lines of research inquiry.

To do so, it utilizes the concept of transgovernmentalism. Slaughter positions transgovernmentalism as the contemporary basis of world order, in contrast, on the one hand, to the 'liberal internationalist ideal' of international institutions as the basis of world order, and, on the other, to the 'new medievalism,' where global governance networks involving public, private and civic actors engage in collaborative problem-solving.²¹ Transgovernmentalism is distinct from liberal internationalism in that the latter involves supranational institutions exercising power independent of their members. Transgovernmental organizations, meanwhile, do not seek to wield power autonomously, but rather, seek to strengthen domestic policy capacity. Slaughter states of transgovernmental relations between regulators, 'Transgovernmental networks often promulgate their own rules, but the purpose of those rules is to enhance the enforcement of national law. ... Transgovernmental regulation ... produces rules concerning issues that each nation already regulates within its borders: crime, securities fraud, pollution, tax evasion.'²² Problems at the international level, such as terrorism, environmental damage, and organized crime, have created and sustained the need for relations between legislative, executive, regulatory and judicial players with their international counterparts. Slaughter identifies a number of potential advantages of transgovernmentalism, including its relative flexibility in comparison to international institutions, its extension of the 'regulatory reach' of national participants, and its capacity to respond to domestic political concerns that national governments are ceding sovereignty to international

²⁰ Stephen Clarkson, *Uncle Sam and Us: Globalization, Neoconservatism, and the Canadian State* (Toronto: University of Toronto Press and Woodrow Wilson Center Press, 2002), 38-40.

²¹ Anne-Marie Slaughter, 'The Real New World Order,' *Foreign Affairs* 76, 5 (1997) 183-197.

²² *Ibid.*, 191.

institutions and that they are losing regulatory capacity in the face of economic globalization.²³

Slaughter identifies a range of formal and informal relations between governments, including informal *ad hoc* relations, relations formalized by agreements (ranging from memoranda of understanding to treaties) and the creation of formal institutions. She also points to the establishment of principles governing transgovernmental relations (these include ‘positive comity,’ a concept the US Department of Justice developed to enable a regulator to inform its counterpart of a violation occurring in the latter’s jurisdiction on the understanding that the responsible regulator will act on the information).

Transgovernmentalism is distinct from transnational relations. The former, as noted above, directly queries the role of international networks of government officials in international relations and in policy change, while the latter examines the role of nonstate actors in policy change and international relations. Research examining transnational relations extends the focus of inquiry beyond government officials to include the multitude of relations between and international advocacy work of non-state actors such as NGOs and private sector organizations.²⁴ In the policy sphere, internationalization tends to widen the range of interests that seek to influence policy issues and it generates strong incentives for the creation and maintenance of transnational relations.²⁵ This is not to say that all transnational advocacy networks wield the same degree of influence, however. Risse-Kappan argues that differences in domestic structures and differences in the degree of international institutionalization of the specific issue-area condition the degree of influence of transnational actors on state policies.²⁶

This conceptual distinction is important for it positions the theoretical focus of the paper. While transgovernmental relations do not exist in isolation from transnational relations, this paper uses the former concept to examine the structure and functioning of cross-border public sector relations in the Canada-United States context. This can then lay the basis for subsequent research querying the relationship between transgovernmental and transnational activity (for example, the influence of corporate industry associations on transgovernmental relations). The paper focuses predominantly on relations between public servants, as opposed to other governmental actors such as members of the legislature, executive or judiciary. As will be explained further below, these latter actors will be considered in terms of the interplay between relations ‘at the working level’ (public servants) and formal relations at the executive or legislative levels.

²³ Ibid, 185.

²⁴ See Thomas Risse-Kappan, ed., *Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions*. (Cambridge: Cambridge University Press, 1995) and Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*. (Ithaca: Cornell University Press, 1998).

²⁵ Doern, Pal and Tomlin, ‘The Internationalization of Canadian Public Policy,’ 9-12

²⁶ Risse-Kappan, *Bringing Transnational Relations Back In* and Keck and Sikkink, *Activists Beyond Borders*.

Table 1 below presents a typology of transgovernmental relations along two dimensions: first, according to the focus of activity in the transgovernmental arena, and second, according to the mechanism employed to undertake this activity. The first column shows a range of activities animating transgovernmental relations.²⁷ Moving from the top to the bottom of the list, they represent a spectrum from conflictual relations, where interests diverge, all the way through to joint operations, where interests are aligned. Beginning at the top of the list, where disputes exist, transgovernmental relations can be motivated by *conflict resolution* (for example, resolving the Canada-US disputes over softwood lumber or over the split-run edition of *Sports Illustrated* magazine). Transgovernmental activity can also pertain to *differentiation*, where domestic jurisdictions seek to maintain distinct policy or regulatory frameworks. The cultural sector provides an apt illustration of differentiation, where the focus of Canada-US relations has largely been directed toward maintaining ‘shelf-space’ for Canadian cultural products in the face of competition from the American cultural industries. *Information sharing and collaboration*, meanwhile, refer to the exchange of data, expertise or knowledge across borders and collaboration to achieve common objectives. *Mutual recognition* refers to countries’ recognition of one another’s distinct policy or regulatory frameworks (e.g., recognizing driver’s licenses issued in the other jurisdiction). *Harmonization*, in contrast, connotes the activity of developing common policy or regulatory frameworks. Finally, *joint operations* exist where authority, resources and information are shared in pursuit of common objectives. The defence sector is probably the most notable example, where joint operations are common in the pursuit of North American security.

Table 1: Focus and Mechanisms of Transgovernmental Relations: A Typology

Focus of Transgovernmental Activity	Mechanisms of Transgovernmental Relations				
	Bilateral Political Relations	Bilateral Public Service Relations			
		Informal exchanges, conferences, working groups, etc.	Mutual recognition agreements, exchanges of letters/notes, protocols, etc.	Treaties	Joint institutions
Conflict resolution	✓			✓	
Differentiation	✓			✓	
Information sharing and collaboration		✓	✓		
Mutual recognition		✓	✓		
Harmonization		✓	✓	✓	
Joint operations					✓

²⁷ The categories of mutual recognition and harmonization are drawn from Bruce Doern, ‘Improving Regulatory Relations in Multi-level Governance: Principles and Mechanisms,’ A Paper for Presentation to the Organization for Economic Cooperation and Development (OECD) *Expert Meeting on Regulatory Cooperation Between Levels of Governments* (Paris, June 30-July 1, 2003).

The table categorizes mechanisms of transgovernmental relation into two broad groupings: those that take place at the political level and those that take place between public servants. Examples of the former include Prime Ministerial and Presidential Visits and Summits, Ministerial-Secretary meetings, and exchanges between parliamentarians and members of Congress. Given this paper's focus on transgovernmental relations at the level of the public service, the table further categorizes relations among public servants into four principle mechanisms that vary according to their level of formality and institutionalization.²⁸ The first category is the least formal, and comprises informal exchanges such as telephone conversations, conferences and bilateral working groups. The second and third categories refer to formal agreements. The second category consists of formal agreements pertaining largely to technical issues (e.g., information sharing protocols in a particular policy field or issue area) that do not require formal ratification in the legislative or executive branches of government. Treaties, meanwhile, are legally binding agreements and generally require ratification. Where they exist, they represent the legal framework within which working level transgovernmental relations occur.

The final mechanism, joint institutions, refers to bilateral organizations such as the International Joint Commission or the North American Aerospace Defence Command (NORAD). They can be classified according to the extent to which they handle matters of high versus low policy. The former institutions are comprised of political members, while membership in the latter tends towards those possessing specialized technical expertise. Most bilateral organizations fall into the latter category: they are composed of public officials and/or of members with 'special qualifications' from outside the government, and tend to focus on technical matters at the administrative level, paying only limited attention to matters of high policy.²⁹

The paper proposes a number of hypotheses respecting the pattern of transgovernmental relations prevailing in a given policy field. First, I propose that the focus of transgovernmental activity will be conditioned by the degree and nature of bilateral interdependence in the policy field in question. In the case of energy, for example, there is high energy market interdependence between Canada and the US, with the US a net importer of Canadian energy. These conditions lead to considerable shared interests in the energy field, and as such, an overall focus on information sharing and harmonization in the energy sector.

The paper also conjectures, as shown by the check marks in the body of the table, that the focus of transgovernmental relations will in turn influence the mechanisms employed. Where the focus is conflict resolution or differentiation, i.e., where interests diverge, transgovernmental relations will tend toward formal bilateral political relations or the use of treaty provisions and dispute resolution mechanisms to secure differentiation or to resolve conflicts. In other words, where interests diverge, transgovernmental mechanisms will tend toward diplomacy or the use of rules-based systems. The examination of cultural industries policy in the following section illustrates this tendency.

²⁸ The first three categories draw from Slaughter, 'The Real New World Order.'

²⁹ Willoughby, *The Joint Organizations*, 12.

In contrast, when the focus of transgovernmental activity is information sharing, mutual recognition or harmonization, I hypothesize that public servants will play a much stronger role in these processes, via informal exchanges. These could include the use of working groups, protocols or mutual recognition agreements. In the case of harmonization, treaties may also play a strong role in putting in place a common policy and regulatory framework. The case of energy discussed in the following section illustrates this tendency toward greater reliance on the public sector where interests are in greater alignment. Finally, I conjecture that where transgovernmental relations seek to pool resources, information and authority to jointly administer operations in a particular policy domain, the mechanism will tend toward the use of a joint institution.

The third hypothesis explored in this paper pertains to the degree of urgency or crisis surrounding the policy field or issue. I postulate that where crises emerge, bilateral political channels are likely to play a strong role where crises lead to the pursuit of divergent interests by the Canada and American governments. These situations will tend to require a much stronger hand by members of the political executive or legislature. In contrast, where crises or situations of urgency result in shared problems or opportunities for Canada and the United States, the paper hypothesizes that public servants are likely to play a much stronger role in addressing these situations. Finally, in the absence of crisis or urgency, i.e., where ongoing and day-to-day management obtain, transgovernmental channels are more apt to prevail.

The following section of this paper begins to test these hypotheses using the case of energy.³⁰ This case has been selected for a number of reasons. First, it resides within the broader field of trade policy, a domain encompassing an ever greater proportion of formerly domestically developed policy sectors. The focus of international trade negotiations has moved from ‘at the border’ issues such as tariffs, import quotas, and valuation, to ‘behind the border’ considerations ranging from investment to health and safety standards to intellectual property rights, erstwhile domestic policy choices made at the national or sub-national levels.³¹ Both the Canada-United States Free Trade Agreement (CUSFTA) and in the North American Free Trade Agreement (NAFTA) contain energy chapters with provisions to liberalize energy trade. In other words, the energy sector is increasingly globalized, and as such, is apt to offer a fertile empirical terrain for the examination of transgovernmental relations.

Second, energy subsectors within this policy domain offer the advantage of cross-sectoral comparison within a single case. The electricity, oil, and natural gas markets differ along a number of key variables examined in this paper: they differ in the degree and nature of bilateral interdependence with the US, the focus of transgovernmental activity, and they offer differing illustrations of the role of crisis and urgency in

³⁰ This case is being treated at the federal level only. A full treatment at both the federal and sub-national levels would be beyond the scope of this paper.

³¹ G. Bruce Doern and Brian Tomlin, “Trade-Industrial Policy,” in G. Bruce Doern, Leslie A. Pal, and Brian W. Tomlin, eds., *Border Crossings: The Internationalization of Canadian Public Policy* (Oxford University Press: Toronto, 1996), 167-187.

transgovernmental processes. Third, the focus of transgovernmental activity has altered over time: from differentiation and conflict resolution in the case of the National Energy Program, to information sharing and harmonization in more recent times. Moreover, inter-temporal comparisons in the energy sector help to illustrate the role of crisis and urgency in conditioning transgovernmental relations.

A Preliminary Empirical Examination of the Hypotheses in the Energy Sector³²

Transgovernmental relations in the energy sector are characterized by a moderate level of activity. While there are no joint energy institutions, there exist multiple cross-border contacts between energy officials in Canada and the US at the political and bureaucratic levels. These have differed over time, across energy sub-markets and according to the degree of crisis or urgency surrounding Canada-US energy market relations. As described below, the pattern of transgovernmental relations in the energy sector lends support to the hypotheses iterated in the previous section.

Degree and nature of bilateral interdependence. There is a high degree of bilateral interdependence in Canada-US energy relations. Canada and the United States both possess considerable energy resources, and trade increasing volumes of energy with one another.³³ Figure 1 on the following page compares Canadian and American reserves of conventional crude oil and natural gas for the year 2000. Canada's reserves of conventional crude are roughly one-fifth those of the United States, standing at 4.4 billion barrels, in comparison to the reserves of 21.8 billion barrels in the US. The figure's focus on conventional crude oil excludes Canada's vast oil sands, which contain 174 billion barrels of remaining established reserves.³⁴ Approximately 315 billion barrels of Canada's oil sands are considered potentially recoverable under anticipated developments in technology and economic conditions.³⁵ In the natural gas sector, Canada's 92 trillion cubic feet of natural gas reserves are roughly half those of the US. The latter's reserves stood at 167 trillion cubic feet in 2000. Both countries also possess sizable electricity generating capacity. In 1999, Canada and the US possessed 111 and 819 gigawatts³⁶ of generation capacity, respectively.³⁷

³² This section draws on Monica Gattinger, 'Power in the Canada-US Relationship: the Politics of Energy,' invited paper presentation to *Relating to the Powerful One: How Canada and Mexico View their Relationship to the United States*, a trilateral seminar organized by the Weatherhead Center for International Affairs at Harvard University, the Department of International Relations at the Instituto Tecnológico Autónomo de México, and the Norman Paterson School of International Affairs at Carleton University. (Cambridge, Massachusetts, May 5-6, 2003). I would like to thank the individuals at Natural Resources Canada who gave generously of their time and expertise in providing useful background information. Any errors and omissions remain the sole responsibility of the author.

³³ This paper examines the oil, natural gas, and electricity sectors.

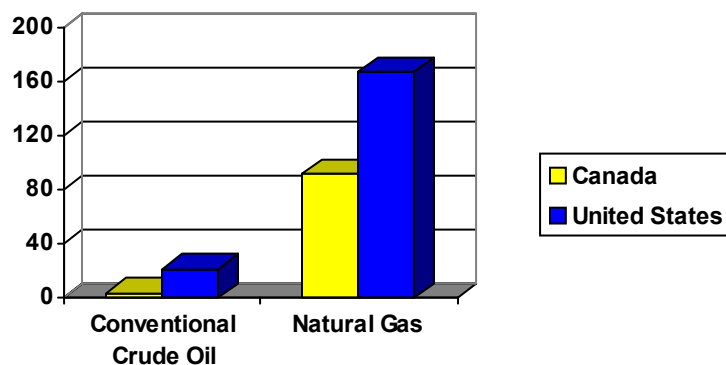
³⁴ Alberta Energy and Utilities Board, *Alberta's Reserves 2002 and Supply/Demand Outlook 2003-2012* Statistical Series 2003-98. (Alberta: Alberta Energy and Utilities Board, 2003).

³⁵ Ibid.

³⁶ 1 gigawatt = 10⁶ kilowatts.

³⁷ North American Energy Working Group, *North America—The Energy Picture*. 2002.

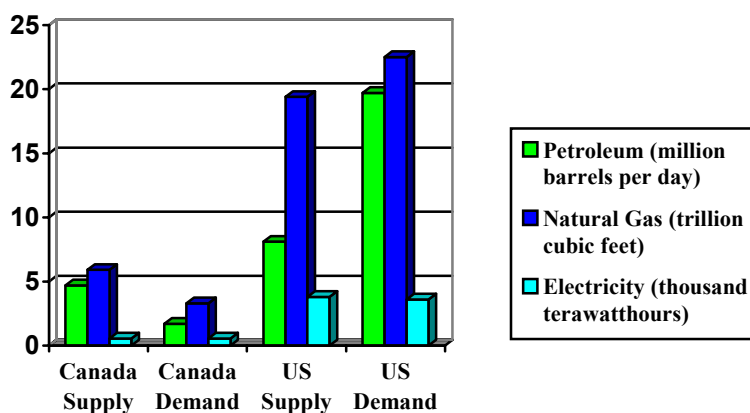
Figure 1: Energy Reserves in Canada and the United States, 2000
(billion barrels conventional crude oil, trillion cubic feet natural gas)



Source: Adapted from North American Energy Working Group, *North America—The Energy Picture*.

Energy supply and demand patterns differ markedly between Canada and the US, with Canadian supply exceeding demand and American demand exceeding supply. Figure 2 below illustrates this pattern, showing supply and demand in Canada and the US for petroleum, natural gas and electricity. As the figure demonstrates, energy supply in Canada exceeds demand in all three energy sectors, particularly petroleum and natural gas, while US demand exceeds supply, with the largest gap in petroleum.

Figure 2: Energy Supply and Demand in Canada and the United States, 2000



Source: Adapted from North American Energy Working Group, *North America—The Energy Picture*.

Note: For Canada, petroleum supply figures are for the production of crude oil, conventional light and conventional heavy oil, synthetic oil, bitumen and natural gas liquids. For the US, petroleum supply figures refer to crude oil and natural gas liquids production. Petroleum demand figures refer to demand for liquefied petroleum gas, motor gasoline, jet fuel, distillate oil, and residual fuel oil. Canadian electricity generation data are for 1999. (1 terawatt-hour = 10^9 kilowatt-hours)

US requirements for imported energy generate considerable market opportunities for the energy sector in Canada. The US is a net energy importer and its dependence on foreign energy sources has doubled over the last two decades. The country imported 25

quadrillion British thermal units of energy³⁸ (quads) in 2000, up from 12 quads in 1980 and 14 quads in 1990.³⁹ Canada constitutes an important energy supplier for the American market, supplying 27 percent of its net energy imports.⁴⁰

Canada-US energy trade has increased rapidly over the last decade as a result of trade agreements and deregulation in the oil, natural gas and electricity sectors, which facilitated bilateral market integration.⁴¹ Table 2 below shows Canada-US energy trade for the years 1991 and 2001. The bilateral trade picture that emerges reveals that Canada is a net energy exporter. While Canada does import American energy, the lion's share of trade flows, particularly in oil and gas, head south. These exports grew considerably in the period shown in the table. In the natural gas sector, Canada's exports to the US more than doubled between 1991 and 2001, from 1.6 to 3.8 trillion cubic feet. Canada exports roughly half its gas supplies, and all of this to the United States.⁴² Export growth in the oil sector has also climbed significantly, almost doubling from 274 million barrels to 499 million barrels. Canada exports over half of the oil it produces, and virtually all of this is to the United States.⁴³ Canadian exports of electricity to the US also roughly doubled over this period, from 24.6 terawatt-hours to 40.2 terawatt-hours.⁴⁴

For the United States, imports of oil and gas represent meaningful proportions of the country's net energy imports and domestic consumption. In 2000, the US imported virtually all of its natural gas from Canada; these imports supplied 15 percent of US consumption.⁴⁵ The figures were less dramatic for the oil sector, but impressive nonetheless. Canada supplied 9 percent of American oil consumption and these exports represented 15 percent of US net oil imports.⁴⁶

Table 2: Canada-United States Energy Trade, 1991, 2001

	Exports to United States		Imports from United States	
	1991	2001	1991	2001
Crude Oil (million barrels)	274	499	1.5	11.4
Natural gas (billion cubic feet)	1,594	3,823	15	157
Electricity (terawatt-hours)	24.6	40.2	6.4	17.9

Source: Adapted from Paul G Bradley and G. Campbell Watkins, 'Canada and the U.S.: A Seamless Energy Border?' *C.D. Howe Institute Commentary*. No. 178 (April) 2003 (Toronto: CD Howe Institute, 2003).

³⁸ The British thermal unit (Btu) enables quantities of different energy sources (oil, gas, electricity, etc.) to be converted into a common energy measurement. One Btu is equivalent to the amount of heat needed to increase the temperature of one pound of water by one degree Fahrenheit.

³⁹ North American Energy Working Group, *North America*.

⁴⁰ *Ibid.*

⁴¹ Paul G Bradley and G. Campbell Watkins, 'Canada and the U.S.: A Seamless Energy Border?' *C.D. Howe Institute Commentary*. No. 178 (April) 2003 (Toronto: CD Howe Institute, 2003).

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ 1 terawatt-hour = 10⁹ kilowatt-hours.

⁴⁵ North American Energy Working Group, *North America*.

⁴⁶ *Ibid.*

The above analysis documents the high degree of energy market interdependence between Canada and the United States, with the US as a net energy market importer in the overall relationship. But there is more to the nature of Canada-US energy interdependence than trade figures reveal. The politics and context of Canada-US energy relations also shape the nature of the two countries' energy interdependence. In comparison to the early 1980s, there are two key similarities and four main differences in the politics and context of contemporary Canada-US energy relations.⁴⁷ The first similarity is that Canada's population is still only one-tenth that of the United States, and that Canada's energy resources tend to lie in less densely populated parts of the country. Canada's relatively small population, the majority of which is located at a distance from energy resources, has meant that Canadian energy development has been inextricably linked to the US. The economic viability of constructing a pipeline from one part of Canada to another, for example, often depends on its passing through the United States to serve American markets along the way. As a result, many major energy decisions in Canada necessarily involve American influence and require decisions by US authorities and regulators. Moreover, American firms are active participants in the Canadian oil and gas sector: following a spate of American acquisitions over the last five years, US oil and gas firms account for roughly 40 percent of production and reserves.⁴⁸

The second similarity in energy politics in Canada and in Canada-US relations in comparison to the early 1980s is that American energy policy influences Canadian energy development, regardless of whether US policy is protectionist or market-oriented. The implications for Canada of recent congressional proposals to mandate the routing of a natural gas pipeline to bring northern gas to the US is a case in point, as are recent proposals in the US respecting electricity sector restructuring.

The first main difference in the contemporary energy milieu is that it is highly improbable that the Canadian government would intervene in as heavy-handed a fashion as it did in 1980 with the National Energy Program (see below). Not only is this unlikely for domestic political reasons, i.e., avoiding the wrath of energy-producing provinces and the implications for national unity, but it is also improbable because of a second main difference in the current energy environment: the country's trade obligations under NAFTA (these largely replicated CUSFTA's energy provisions). NAFTA's energy chapter prohibits the establishment of two-price policies like those found in the NEP and its proportionality provisions virtually eliminate the possibility that Canada would reduce energy exports to the United States.

The third and fourth main factors differentiating the current era from the past pertain to market integration. The US and Canadian economies are increasingly integrated. This heightens mainstream industries' focus on competitiveness in relation to American counterparts and prompts closer attention to any lever of cost advantage, including energy costs. Market integration in the contemporary period also extends to

⁴⁷ Bruce Doern and Monica Gattinger, 'Another 'NEP': The Bush Energy Plan and Canada's Political and Policy Responses,' in Norman Hillmer and Maureen Appel Molot, eds. *Canada Among Nations 2002: A Fading Power*. (Toronto: Oxford University Press, 2002), 74-96.

⁴⁸ Claudia Cattaneo, 'U.S. companies have altered energy scene.' *National Post*. 5 May, 2003 FP3.

Mexico. This is the fourth issue that can shape Canada-US energy relations. A number of factors foster continental energy markets: trade liberalization, domestic deregulatory reform, industrial convergence in gas and electricity, and information technology permitting instantaneous market transactions.⁴⁹ Notwithstanding increasing continental integration, the vast majority of energy trade is bilateral Canada-US and US-Mexico trade. The final section of this paper will examine the extent to which Mexico may shape contemporary Canada-US energy relations.

For Canada, 1980 was a defining moment in Canada-US energy relations. This was the year that the federal government, under the leadership of Prime Minister Trudeau, instituted the National Energy Program (NEP). The policy was crafted in the aftermath of the oil crises of 1974 and 1979 and was intended to achieve energy self-sufficiency in Canada over the coming decade. It contained measures to increase Canadian ownership and exploration in the oil and gas sector, to give Canadians priority access to domestic oil and gas supply, to subsidize domestic prices, and to freeze natural gas exports and curtail oil exports to the United States. The policy also sought to increase federal revenues from the energy sector. The NEP was developed with next to no provincial or private sector consultation and resulted in an immediate backlash from the energy producing provinces, particularly oil and gas rich Alberta, from industry, especially American energy firms operating in Canada, and from the American government.

The program was a clear attempt to differentiate Canadian energy policy from that of the Americans, and to respond to crises in world oil markets. It resulted in considerable conflict with the United States: American energy firms operating in Canada opposed the measures to increase Canadian ownership and exploration and the Reagan administration viewed the export restrictions as an affront to American energy security. In response to provincial, industry and American pressure, the federal government signed an agreement with Alberta on revenue sharing in 1981, and modified some of the program components that were irritants to the US in 1982.

The NEP illustrates the potential for crises to lead to the pursuit of conflicting interests by Canadian and American governments, in this case with considerable conflict as an outcome. In this case, the pursuit of differentiation and the resolution of the resulting conflict occurred chiefly through bilateral political channels. It did not significantly involve public service transgovernmental relations. Indeed, the Canada-United States Energy Consultative Mechanism (ECM), an annual meeting of energy department officials, fell into disuse during this period, and was not revived until after the resolution of the Canada-US conflict over the NEP in 1982.

It was not until the election of the Mulroney Conservative government in 1984 that the remainder of the NEP was dismantled and an energy chapter was negotiated in the CUSFTA that would prohibit the revival of NEP-style energy policies in the future.

⁴⁹ Joseph M. Dukert, 'The Evolution of the North American Energy Market: Implications of Continentalization for a Strategic Sector of the Canadian Economy,' *American Review of Canadian Studies* 30, 3 (2000) 349-359.

The change of government brought with it a change of focus in transgovernmental relations. In contrast to the Trudeau Liberals' conflict-provoking, centrist and protectionist approach to energy policy, the Mulroney government adopted a much more consensual, consultative and pro-market stance on energy. The focus relied much more closely on information sharing, mutual recognition and harmonization of energy policy and regulation, and utilized both informal mechanisms at the working level and treaties to pursue these aims.

Shortly after their electoral success in 1984, the Mulroney Conservatives dismantled what remained of the NEP and negotiated the Canada-US Free Trade Agreement, which hammered the proverbial nail in the NEP coffin. CUSFTA's energy chapter essentially disallows price controls in the oil and gas sector and prohibits the establishment of two-price policies like those found in the NEP. The agreement also includes proportionality provisions that fundamentally constrain the federal government from reducing exports by stipulating that export reductions must be offset by proportional reductions in supply to domestic consumers. This pro-market approach to energy trade smoothed Canada-US, federal-provincial and federal-industry energy relations by responding to the energy security concerns of the US, and to the concerns of energy producers and energy producing provinces regarding federal interventionism. Moreover, CUSFTA's energy provisions helped to ensure secure and predictable access for Canadian energy resources to the American marketplace, another primary consideration for energy sector players who feared American protectionism.

Informal working-level arrangements, notably the Energy Consultative Mechanism, provided an inter-agency forum for information sharing and ongoing efforts toward mutual recognition. The ECM, established in 1979 for ongoing exchanges on bilateral energy issues, meets at least once a year and serves to enhance cooperation as well as address bilateral irritants before they develop into full-blown bilateral conflicts. The most recent ECM meeting was held in Ottawa in July 2003, where the topics discussed ranged from oil sands production to the US' natural gas summit to electricity grid interdependence. These meetings are noted for their focus on cooperation and on seeking resolution to bilateral conflicts. The magnitude of the conflict over the NEP appears to have exceeded the conflict resolution capacity of this group; as noted above, the mechanism fell into disuse during the NEP conflict and was only revived following resolution of the NEP conflict via bilateral political channels.

Contemporary Canada-US energy relations must be understood in the context of the Bush administration's May 2001 National Energy Policy.⁵⁰ The policy, drafted by a working group headed by Vice-President Dick Cheney, was written in the midst of rising energy prices and the electricity crisis in California. Entitled *Reliable, Affordable, and Environmentally Sound Energy for America's Future*, the document lays out a series of

⁵⁰ National Energy Policy Development Group, *Reliable, Affordable, and Environmentally Sound Energy for America's Future*. (Washington: US Government Printing Office, 2001).

recommendations targetted chiefly at reliability and affordability, with environmental considerations present but decidedly secondary to the main thrust of the plan.⁵¹

A listing of some of the document's main recommendations demonstrates the plan's emphasis on supply-driven solutions to the nation's energy challenges. It recommends reducing restrictions on oil and gas development on public lands, opening part of the Arctic National Wildlife Refuge in Alaska for drilling (see below), streamlining the regulatory approval process for power plant siting, creating tax incentives for developing clean coal technologies, reducing regulation to facilitate the expansion of existing or building of new power plants, and limiting private sector liability for nuclear accidents. One-third of the plan's 105 recommendations focus on building international relationships to achieve the administration's aim of greater diversity in energy supply.⁵² The plan conceives of energy security in continental terms, and views increased energy production and cooperation in North America as an important building block of energy security.⁵³ For Canada, this means principally its oil and gas reserves, but also electricity generation and transmission capacity.

The 11 September 2001 terrorist attacks heightened existing US concerns over energy security. While the National Energy Policy identified Canada and Mexico as important partners in domestic energy security, 11 September underscored these concerns and added impetus to achieving energy security through North American energy supply. Analyses forecasting tight supplies of natural gas in North America in both the short and long-terms are also fuelling American energy security concerns. Following the terrorist attacks, a further energy security consideration – security of critical energy infrastructure – gained prominence. The Smart Border Declaration signed by Canada and the United States includes measures to increase the physical security of energy facilities from terrorist attacks. Natural Resources Canada created the Energy Infrastructure Security Division. While energy infrastructure security had always been among the department's functional responsibilities, the new division gave formal institutional expression to the heightened priority of infrastructure security post-11 September.

The electricity blackout in August 2003 that left some 50 million people in the Midwestern and Northeastern American states and the Canadian province of Ontario without power also served to catapult energy ever upwards on the American policy agenda, focusing attention squarely on electricity market restructuring and electricity reliability (see below).

Contemporary Canada-US energy relations must also be understood in the context of the Kyoto Protocol. In early 2001, the Bush administration announced that it would not ratify the Kyoto Protocol on the United Nations Framework Convention on Climate Change (UNFCCC). Bush stated that the country would not ratify Kyoto because the

⁵¹ Deborah McGregor, 'Plan fuels flames of war between two parties,' *Financial Times* (London), 18 May, 2001, 8.

⁵² Spencer Abraham, 'Supply Diversity' Excerpted from U.S. Energy Secretary Spencer Abraham's remarks 27 June 2002 to the American Petroleum Institute in Dallas Texas. *The Daily Deal*. July 18, 2002.

⁵³ National Energy Policy Development Group, *Reliable, Affordable, and Environmentally Sound*, 8-8 to 8-10.

accord does not require major developing nations to reduce their emissions, and because the pursuit of the country's Kyoto targets would damage the US economy. For Canada, a Kyoto signatory who intended to ratify (and did in late 2002), this move hardened existing domestic opposition to ratification, and generated intense concerns that if the country ratified, firms operating in Canada would be at a competitive disadvantage to their counterparts in the US.⁵⁴

The US decision not to ratify also generated uncertainty among Canadian policy-makers as to the nature and scope of measures the United States might develop and implement to combat climate change. In February 2002, Bush announced the administration's strategy for climate change, a voluntary approach targeting a reduction in carbon dioxide emissions intensity of 18 percent over the next decade. Given that the emissions intensity of the American economy is already on the decline because of the growth of less emissions-intensive industries like services, the target can be realized without mandatory emission controls.⁵⁵

In sum, energy has come to occupy a much more prominent place on both the domestic and bilateral policy agendas of Canada and the United States in recent times owing in part to rising energy prices, but also to the ascendance of energy policy on the American policy agenda, to heightened concerns over energy security in the wake of the 11 September 2001 terrorist attacks, and to the challenges of electricity market restructuring and reliability as demonstrated in California and more recently with the August 2003 blackout. For the United States, Canada's vast energy reserves constitute both a current and future building block of domestic energy security – all the more so following the terrorist attacks. For Canada, with its longstanding interest in secure and predictable access to the American energy market, US interest in the country's energy resources presents a considerable opportunity. Although Canadian and American interests in the energy sector are complementary and mutually reinforcing, the process of liberalization and integration of Canada-US energy markets can generate tensions. What follows below examines a number of major sector-level issues in Canada-US energy relations and their associated transgovernmental processes – electricity market restructuring and reliability, the development and transportation of natural gas from Alaska to the lower 48 states, and oil drilling in the Arctic National Wildlife Refuge (ANWR).

Electricity. The electricity blackout of August 2003 focused attention squarely on electricity reliability, particularly reliability in the context of electricity market restructuring in the United States and in the context of Canada-US electricity market interdependence and integration. On August 14, 2003, an estimated 50 million people in the Northeastern and Midwestern United States and in Ontario Canada were left without power. For some in the US, power was not restored for two days, and for some in Ontario, power was not fully restored for more than a week. This crisis illustrates the

⁵⁴ Alan Toulin, 'Kyoto costs must be clear, Dhaliwal says: Raises competitive issue: New conditions to ratification of emissions treaty.' *National Post*, 17 June, FP3, 2002.

⁵⁵ Ross McKittrick, 'Bush sinks Kyoto: New U.S. carbon targets can be met without mandatory controls. Japan and Australia are wavering. Where does that leave Canada?' *National Post*. 16 February 2002.

greater role of public service transgovernmentalism where the urgent situation results in common problems across the border.

In contrast to the NEP, where world oil crises resulted in the pursuit of differentiation, the August 2003 blackout posed a common threat to Canada and the United States. Rather than bilateral conflict and severing of working-level contacts, the focus of transgovernmental relations was one of information sharing and collaboration and the predominant mechanism was at the working level. The two countries established a joint working group, the United States-Canada Power System Outage Task Force, to investigate the cause of the blackout and to recommend how to decrease the possibility of such outages in the future. In November 2003, the working group released an interim report detailing the results of its investigation.⁵⁶ The report identified a number of sources of the outage, several of which were largely preventable, including inadequate maintenance of electricity infrastructure (e.g., insufficient tree-trimming close to high-voltage electricity transmission lines), monitoring equipment failure, lack of procedures to coordinate electricity system operators' reactions to electricity transmission problems, as well as human error, weak communications, and insufficient training.⁵⁷ Failure of a number of electricity sector players to comply with voluntary reliability standards established by the North American Electric Reliability Council (NERC) was identified as a strong contributing factor to the blackout.

Alaskan natural gas. In the natural gas sector, the selection of a pipeline route to bring Alaskan (and Canadian) gas to the US has become an increasingly important bilateral energy issue, and one that continues to generate tension between Canada and the United States. Gas reserves in Alaska are estimated at 100 trillion cubic feet, a quantity that could supply the American market for 50-60 years. There are two potential pipeline routes under consideration to bring the gas to the lower 48. The Alaska Highway project would travel via a land route in Alaska across the Yukon and into Alberta. The Mackenzie Valley route would travel across the Beaufort Sea and then south along the Mackenzie Valley to Alberta. Either route would bring the gas to Alberta, at which point a new pipeline would move it to Chicago.

The Canadian government and the Bush administration both adopted route neutral positions. Meanwhile, the Alaska government pushed for the Alaska route and Congress has seemed intent on mandating the Alaska route. The Canadian government opposes legislative mandating of the pipeline route, stating that the choice of route is ultimately one for the private sector to make (subject to regulatory and environmental review) and that industry should not be restricted in evaluating potential routes. This bilateral tension has been addressed via formal diplomatic channels. Canadian ambassador to the United States Michael Kergin has expressed this position repeatedly in letters to the US Secretary of Energy, the Under Secretary of State for Economic, Business and Agricultural Affairs, in a letter to the *Wall Street Journal*, and in a letter to the co-chairs

⁵⁶ United States-Canada Power System Outage Task Force, *Interim Report: Causes of the August 14th Blackout in the United States and Canada*, 2003.

⁵⁷ *Ibid.*

of the House-Senate Conference on the Energy Policy Act of 2003.⁵⁸ In June 2003, an industry and aboriginal consortium announced its intention to build a pipeline to bring gas from three fields in the Mackenzie River delta to Alberta. Thus, one portion of the Mackenzie Valley route may be constructed regardless of which route may ultimately bring Alaskan gas to the lower 48 states. Congress has also been developing provisions to create a pipeline subsidy and a price subsidy for Alaskan North Slope gas. The government of Canada's position as expressed by Ambassador Kergin is that subsidies would distort natural gas markets, and that a gas price subsidy would provide a price guarantee, which could depress natural gas prices in other markets such as Alberta, that are subject to market prices.⁵⁹ These bilateral tensions appear to be being addressed via formal diplomatic channels rather than working level arrangements.

The Arctic National Wildlife Refuge. The Bush energy plan's proposal to open up drilling in the coastal plain of the Arctic National Wildlife Refuge (ANWR) in Alaska received a very bumpy ride in Congress. In Fall 2002, ANWR proved a major stumbling block in the House-Senate Conference on Energy Policy. While the House energy bill authorized exploration in ANWR, Senate conferees strongly opposed it. Congress was unable to reach agreement on a consensus bill prior to the mid-term elections in November. Following the mid-term elections, ANWR was again on the congressional legislative agenda, although the prospects for oil development in ANWR seemed slim once again. The House of Representatives passed a comprehensive energy bill that included measures to support ANWR drilling, but in March 2003 the Senate voted 52-48 against drilling in ANWR. The House-Senate Conference report on the bill did not include measures to open up drilling in ANWR. Notwithstanding Senate opposition, the House Republican leadership has indicated that it will continue to press for oil development in the region, perhaps by including a leasing provision in an energy bill.⁶⁰

For Canada, energy activities in ANWR raise important domestic concerns. The Refuge, which borders on the Yukon, is pristine environmental land and its coastal plain is the summer migratory destination for the Porcupine caribou, which spend their winters in the southern part of the refuge and in Canada. In the summer calving season, they migrate to ANWR's coastal plain, which provides an abundance of vegetation and safety from predators. Porcupine caribou are central to the culture and subsistence of the Gwich'in ('people of the caribou') First Nation people, that live in northeast Alaska and northwest Canada. The Gwich'in people have actively opposed drilling in ANWR, and have made numerous representations in Washington, testifying at hearings and meeting

⁵⁸Michael Kergin, *Ambassador Kergin's Letter to [Secretary of Energy] Spencer Abraham, September 5, 2001*; *Ambassador Kergin's Letter to [Under Secretary of State for Economic, Business and Agricultural Affairs] Alan P. Larson, September 17, 2002*; 'Trust the market (and Canada),' Letter to the Wall Street Journal, *Wall Street Journal*, 15 May 2002; and *Ambassador Kergin's Letter to Rep. W.J. Tauzin and Sen. P. Domenici, September 12, 2003*.

⁵⁹ Michael Kergin, *Ambassador Kergin's Letter to [Under Secretary of State for Economic, Business and Agricultural Affairs] Alan P. Larson, September 17, 2002*; *Ambassador Kergin's Letter to Rep. W.J. Tauzin and Sen. P. Domenici, September 12, 2003*; and *Ambassador Kergin's letter to Sen. Charles E. Grassley and Sen. Max Baucus, April 7, 2004*.

⁶⁰ Maureen Lorenzetti, 'Energy legislation again in House, Senate committees.' *Oil & Gas Journal*. 101 (13), 26-27, 31 March, 2003.

with congressional staff. The Canadian government supports the Gwich'in in their efforts and Ambassador Michael Kergin has urged the United States to protect the refuge.⁶¹ With the slim prospects that the current Congress will open up ANWR for drilling, this issue does not figure as prominently as it has in the past (or as it may in the future) in bilateral energy relations. Transgovernmental relations over ANWR appear to support the hypothesis that where the focus is conflict resolution or differentiation, formal bilateral political channels will prevail over public service transgovernmentalism.

Discussion and Conclusions

This paper began by pointing out the shortage of systematic theoretical and empirical research on working level arrangements and institutions in Canada-US relations. It aimed to begin to address this theoretical and empirical gap by developing a conceptual framework and a set of hypotheses that seeks to explain the pattern of transgovernmental relations prevailing in a given policy field. The paper is admittedly exploratory in nature, and seeks to begin laying the groundwork for further empirical investigation.

The case of energy examined above lends some initial support to the hypotheses developed in the first section of the paper. Table 3 on the following page reproduces Table 1 of this paper, with the energy sector transgovernmental relations discussed in the previous section summarized in parentheses in the body of the table. As the table shows, where the focus of transgovernmental relations was on conflict resolution or on differentiation as with the National Energy Program, drilling in the Arctic National Wildlife Refuge or pipeline routing and pricing for Alaskan natural gas, transgovernmental relations tended toward bilateral political channels. In contrast, where the primary transgovernmental activity was information sharing or collaboration, informal exchanges via such mechanisms as the Energy Consultative Mechanism or the Canada-United States Power System Outage Task Force tended to prevail.

As hypothesized, the nature of the crisis and urgency surrounding the NEP and the August 2003 electricity blackout appear to have conditioned transgovernmental activity. In the case of the former, the interests pursued by the Trudeau government ran counter to those of the Reagan administration, leading to both a strategy of differentiation and the dominance of bilateral political relations to resolve the ensuing conflict. In the electricity blackout, in contrast, the crisis resulted in a shared problem for Canada and the United States. Although bilateral political channels announced the creation of the task force, Canadian and American public servants took the lead in the investigation.

The table also shows the predominance of informal exchanges between public servants when transgovernmental activity focuses on information sharing and collaboration as it does with the Energy Consultative Mechanism. Finally, the Canada-US Free Trade Agreement and the North American Free Trade Agreement provide illustrations of the role of treaties in achieving harmonization – in the case of energy, harmonization of the bilateral energy trade framework.

⁶¹ Kergin, *Ambassador Kergin's Letter to Rep. W.J. Tauzin and Sen. P. Domenici*.

Table 3: Focus and Mechanisms of Transgovernmental Relations: A Typology

Focus of Transgovernmental Activity	Mechanisms of Transgovernmental Relations				
	Bilateral Political Relations	Bilateral Public Service Relations			
		Informal exchanges, conferences, working groups, etc.	Mutual recognition agreements, exchanges of letters/notes, protocols, etc.	Treaties	Joint institutions
Conflict resolution	✓ (NEP, ANWR, Alaskan gas)			✓	
Differentiation	✓ (NEP)			✓	
Information sharing and collaboration		✓ (ECM) (Power Outage Task Force)	✓		
Mutual recognition		✓	✓		
Harmonization		✓	✓	✓ (CUSFTA/NAFTA)	
Joint operations					✓

This initial analysis is admittedly very preliminary in nature. It is my hope that further investigation in this vein will help to build a body of research that can then form the basis of a subsequent stage of theoretical and empirical work. This next stage could query a range of pertinent theoretical concerns, among which I believe are the following: what is the influence of increasing continental economic integration on bilateral Canada-US transgovernmental relations? For example, to what extent are Mexican public officials becoming players in forums that have traditionally involved only Canada and the United States? Where this is occurring, is it affecting bilateral transgovernmental forums and relations? If so, how?

In the energy sector, for example, the North American Energy Working Group (NAEWG) is a new transgovernmental forum at the trilateral level. In early 2001, US President Bush, Prime Minister Chrétien and Mexican President Vicente Fox agreed to collaborate more closely on energy issues. Following on this interest, in March 2001, then energy ministers Ralph Goodale (Canada), Ernesto Martens (Mexico), and Spencer Abraham (United States) committed to the goal of closer collaboration and agreed to create the North American Energy Working Group, a working group of national representatives focusing on continental energy issues. The goals of the group are to 'foster communication and cooperation among the governments and energy sectors of the three countries on energy-related matters of common interest, and to enhance North American energy trade and interconnections consistent with the goal of sustainable development, for the benefit of all'.⁶² The group works within domestic and international

⁶² North American Energy Working Group, *North America*, ii.

policy, regulatory, and institutional frameworks to identify factors and issues affecting energy development, production, transmission/transport, distribution and consumption. It examines market developments, energy supply and demand issues, as well as matters of government intervention that require action, including regulation, technical specifications and research and development in energy technology.

The NAEWG is composed of energy officials from the three member countries and is jointly chaired by Natural Resources Canada, the US Department of Energy, and the Mexican Secretariat of Energy. It has met regularly since its inception (in June 2001 in Washington, DC; in Ottawa, Canada in December 2001; in Mexico in May 2002, and in Ottawa, Canada in July 2003). The work of the group to date has been focused predominantly on taking stock of information on energy resources, energy infrastructure, and policy and regulatory frameworks in the NAFTA countries. Its first report, *North America—The Energy Picture* contains a wide range of energy statistics compiled by each of the energy departments, including energy reserves, supply and demand trends, energy projections, and information on domestic infrastructure, and constitutional and regulatory frameworks.⁶³ The second report, *North American Energy Efficiency Standards and Labeling* (NAEWG, 2002b) examines the potential for enhanced coordination and long-term harmonization on energy efficiency programs in the region to reduce compliance costs, to hasten the adoption of more-efficient products, and to facilitate market development for energy-efficient goods.⁶⁴ The third report describes regulatory frameworks for the electricity sector and electricity trade in each of the three countries.⁶⁵

The Bush administration seems to favour a trilateral approach to North American energy relations.⁶⁶ If American emphasis on trilateralism crowds out attention to bilateral energy issues, this could prove problematic for both Canada and Mexico, albeit for different reasons. For Canada, many energy issues are predominantly bilateral and pertain to managing Canada-US energy market integration in the context of trade liberalization and energy market deregulation. To the extent that American trilateralism crowds out opportunities to address bilateral Canada-US matters, this could erect new challenges for Canada in its efforts to manage the Canada-US energy file.

Subsequent research on transgovernmentalism could also query the extent and nature of the relationship between transgovernmental relations and transnational relations, i.e., nongovernmental actors' pursuit of policy interests. Transgovernmental networks do not exist in isolation from transnational networks – the role of transnational networks vis-à-vis transgovernmental networks must be considered. What is the nature of

⁶³ North American Energy Working Group, *North America—The Energy Picture*, 2002

⁶⁴ North American Energy Working Group, *North American Energy Efficiency Standards and Labeling*, 2002.

⁶⁵ North American Energy Working Group, *North America – Regulation of International Electricity Trade*, 2002.

⁶⁶ American Ambassador to Canada Paul Celucci reportedly lauded the North American Energy Working Group at a reception for officials that had participated in the NAEWG and ECM meetings, which were held back-to-back in Ottawa in July 2003. He did not seek to highlight the work of the long-standing Energy Consultative Mechanism, in his remarks.

interactions between these two sets of actors? For example, what is the effect on bilateral relations and policy-making of private corporations or non-government organizations (NGOs) attending as observers at or making representations to transgovernmental meetings?⁶⁷ By what means and to what effect do nongovernmental actors from the private and civic sector seek to influence policy decision-making via interest representation to transgovernmental channels?

Scholarship on policy communities and transnational relations argues that national governments may become less influential members of an international policy community when the community involves transnational linkages unmediated by the state.⁶⁸ That is, stronger network connections may exist between non-state domestic interests and foreign actors (e.g., non-government organizations, foreign bureaucracies, or international institutions) than between domestic actors and their national representatives. To the extent that this theoretical contention bears out empirically, what are the implications for Canadian influence in the Canada-US relationship?

Finally, subsequent research would do well to consider the influence of differences in the domestic policy and institutional settings between Canada and the US in shaping transgovernmental relations (e.g., parliamentary versus congressional government, partisan versus neutral public sector traditions, differences in jurisdictional arrangements, etc.). The potential influence on the conduct of bilateral Canada-US transgovernmental relations of international or multilateral regimes and institutions in specific issue areas will also need to be theoretically and empirically fleshed out. For example, what is the relationship between the International Energy Agency or the International Partnership for the Hydrogen Economy on bilateral energy relations between public officials?

This is an ambitious research agenda to be sure. ‘Bringing the transgovernmental in’ to public administration will constitute a significant scholarly undertaking in the years to come. This inquiry is sorely needed and will broaden theoretical and empirical understandings of the influence of globalization on public administration – a most worthy research objective indeed. Such learning would permit both enhanced academic understanding of contemporary public administration and would make a solid contribution to the practice of public administration today.

⁶⁷ In this vein, the North American Energy Working Group will soon be holding a trilateral meeting in Washington where private sector members of the Canadian, American and Mexican energy markets are invited to submit their input regarding the three reports the NAEWG has prepared.

⁶⁸ Michael M. Atkinson and William D. Coleman, ‘Policy Networks, Policy Communities and the Problems of Governance,’ *Governance* 5, 2 (1992), 154-180.