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The implementation of integrated cross-border law enforcement is key to *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness*, announced by Prime Minister Harper and President Obama in February 2011.

Please rest assured that there are provisions to safeguard Canadian sovereignty:

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Yours sincerely,

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With respect to your request for additional sources of information, I would encourage you to review the Framework Agreement on *Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America*, which can be found at:

http://www.publicsafety.gc.ca/prg/le/_fl/int-cross-brdr-maritime-eng.pdf, as well as the Senate Committee hearing transcripts related to the *Integrated Cross-Border Law Enforcement Operations Act*, included as Division 12, Part 4, of the *Budget Implementation Act*, which can be found by visiting the Parliamentary of Canada website at: **www.parl.gc.ca**.

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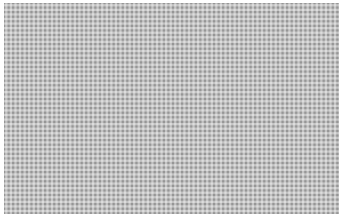
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c.c.: The Honourable Rob Nicholson, P.C., Q.C., M.P.
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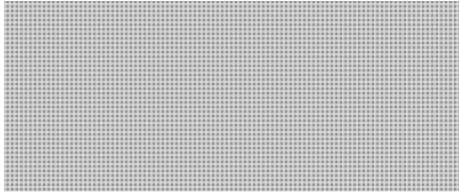
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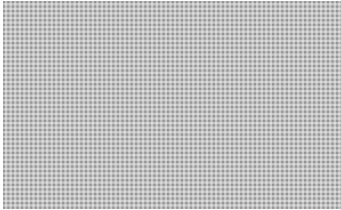
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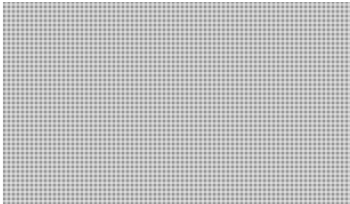
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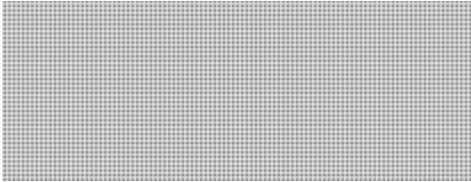
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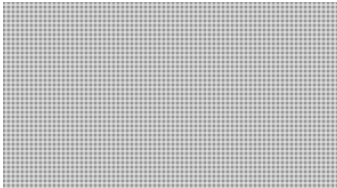
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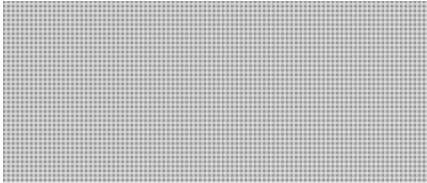
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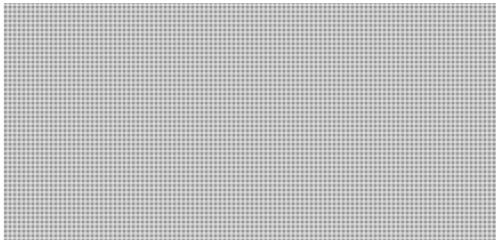
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In terms of concerns that the Canada Border Services Agency (CBSA) would not be participating, I would like to underscore that the agency is not a law enforcement agency with requisite training and designation, such as the Royal Canadian Mounted Police

000021

- 2 -

(RCMP) or the U.S. Coast Guard, which is a requirement to participate in such operations. Unlike CBSA, which has statutory authority at ports-of-entry, the RCMP has mandated responsibility for the border between ports-of-entry and, as such, will be the lead Canadian agency responsible for overseeing, coordinating and participating in Shiprider operations.

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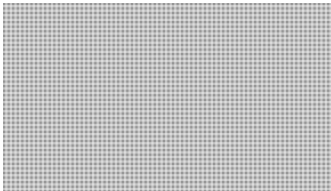
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c.c.: The Right Honourable Stephen Harper
Prime Minister of Canada

The Honourable Jim Flaherty, P.C., Q.C., M.P.
Minister of Finance

000022

s.19(1)



Thank you for your correspondence which was forwarded to me by Ms. Candice Bergen, Member of Parliament for Portage-Lisgar, concerning cross-border law enforcement operations between Canada and the United-States (U.S.).

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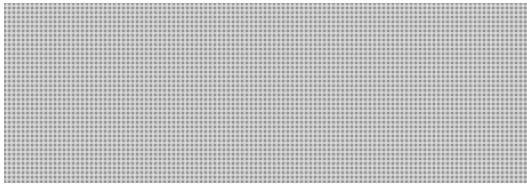
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Yours sincerely,

Vic Toews, P.C., Q.C., M.P.

c.c.: Ms. Candice Bergen, M.P.
Portage-Lisgar

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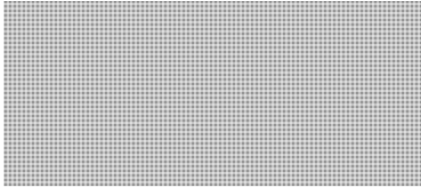
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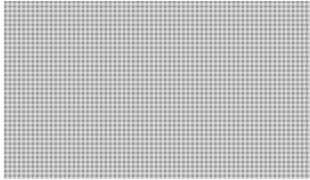
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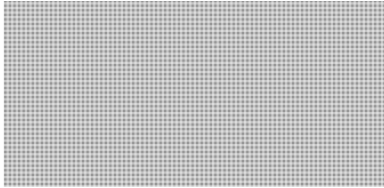
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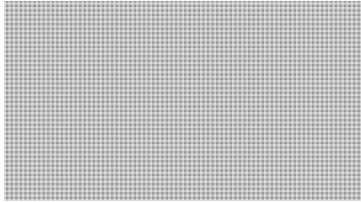
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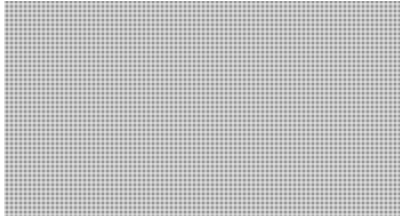
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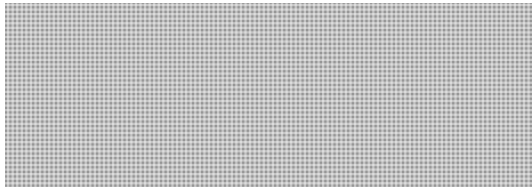
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c.c.: Mr. Randy Hoback, M.P.
Prince Albert

000042

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000044

Mr. Jean-Pierre Fortin
National President
Customs and Immigration Union
1741 Woodward Drive
Ottawa, Ontario K2C 0P9

Dear Mr. Fortin:

Thank you for your correspondence of May 23, 2012, forwarded to me by Mr. Simon Kennedy regarding integrated cross-border maritime law enforcement operations ("Shiprider"). I appreciate you bringing the concerns of your organization to my attention as Shiprider is a key initiative under the Beyond the Border Action Plan.

The Canada Border Services Agency (CBSA) is not specifically excluded from integrated cross-border law enforcement operations with the United States. However, the CBSA will not directly participate in Shiprider operations for two reasons:

- 1) it is not a law enforcement agency with requisite training and designation, such as the Royal Canadian Mounted Police (RCMP) or the U.S. Coast Guard, which is a requirement to participate in the operations; and
- 2) unlike CBSA, which has statutory authority at ports-of-entry, the RCMP has mandated responsibility for the border between ports-of-entry and, will be the lead Canadian agency responsible for overseeing, coordinating and participating in Shiprider operations.

Although CBSA will not be directly participating in Shiprider operations, I would note that the CBSA is an integral part of integrated cross-border law enforcement operations at the border and directly contributes to the Integrated Border Enforcement

- 2 -

Team program in an intelligence-support capacity. Similarly, the CBSA will directly participate in Next Generation pilot project operations in intelligence and investigative activities, which builds on the successful Shiprider concept for land-based operations.

Again, thank you for sharing your concerns on this issue.

Sincerely,

Graham Flack
Acting Deputy Minister

c.c.: Mr. David Moloney
Senior Advisor to the Privy Council Office,
responsible for Border Action Plan

Mr. Simon Kennedy
Senior Associate Deputy Minister
Industry Canada

Mr. Luc Portelance
President
Canada Border Services Agency

000046

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National President
Customs and Immigration Union
1741 Woodward Drive
Ottawa, Ontario K2C 0P9

Dear Mr. Fortin:

Thank you for your correspondence of August 29, 2012, regarding the participation of the Canada Border Services Agency (CBSA) in integrated cross-border maritime law enforcement operations (also known as "Shiprider"). I appreciate the concerns of your organization and your continuing interest in the Shiprider initiative.

The CBSA is a key participant in integrated cross-border law enforcement initiatives and continues to expand its role in both intelligence and investigative support capacities. Should a greater capacity be required to deliver Shiprider operations in the future and a potential role for CBSA presents itself, I would be sure to keep you abreast of any developments.

For now, I trust you will find the information provided to you in my previous responses helpful in better understanding the Government's decision to limit the CBSA's direct participation in Shiprider operations.

Sincerely,

Graham Flack
Acting Deputy Minister

c.c.: Mr. David Moloney
Senior Advisor
Privy Council Office

Mr. Luc Portelance
President
Canada Border Services Agency

Mr. Jean-Pierre Fortin
National President
Customs and Immigration Union
1741 Woodward Drive
Ottawa, Ontario K2C 0P9

Dear Mr. Fortin:

Thank you for your correspondence, dated June 6, 2012, addressed to the Prime Minister, as well as your exchange with Mr. Graham Flack, then Acting Deputy Minister, concerning the Canada Border Services Agency's (CBSA) role in Shiprider operations between Canada and the United States. I agree with Mr. Flack's response which I have enclosed for your reference.

While developing the Shiprider Framework Agreement with the United States, Canadian operational participation, including the CBSA, was carefully considered by the Government from both a policy and legal standpoint.

I would underscore the comment that I previously made during my appearance before the Senate Standing Committee on National Security and Defence in May 2012: while CBSA officers are peace officers when they perform their duties under the *Customs Act*, the *Immigration and Refugee Protection Act* and other acts, they are not police officers, nor are they trained to or have a mandate to enforce the full spectrum of Canadian laws between ports of entry.

Thank you for taking the time to write.

Yours sincerely,

Vic Toews, P.C., Q.C., M.P.

Enclosures: (2)

c.c.: Mr. David Moloney
Senior Advisor, Border Action Plan Implementation
Privy Council Office

Mr. Luc Portelance
President, Canada Border Services Agency

Next Generation Presentation

9:45 – 10:25 a.m.
(15-20 min presentation
with 20-25 min discussion)

Presenter: Richard Wex, Assistant Deputy Minister, Law Enforcement and Policing Branch,
Public Safety Canada

Desired Canadian Outcomes

- To review progress to date on the development of the Next Generation concept of operations and the deployment of pilot project operations; **s.15(1) - Int'l**
- [Redacted] **s.21(1)(a)**
- [Redacted]

Summary

- Since CBCF Ministers last met in November 2010, progress has been made on the advancement of the Next Generation concept, including the identification of some key pilot project components and guiding principles. **s.21(1)(c)**
- This includes agreement that:
 - two pilot projects – one rural and one urban – will be launched for a two-year period in BC/Washington State and Windsor/Detroit with an evaluation after one-year;
 - Next Generation operations will be jointly governed;
 - key operational components of Next Generation will be uniformed presence, joint investigations, and information and intelligence sharing;
 - both countries will undertake a coordinated public outreach and awareness campaign with stakeholders to highlight the benefits of Next Generation operations; and
 - regularized Shiprider operations will be deployed to support the pilot projects.

Considerations

- The deployment of Next Generation pilot operations has been incorporated as a key initiative under the *Action Plan on Perimeter Security and Economic Competitiveness* announced by the Prime Minister and President on December 7, 2011. Two Next Generation pilot projects are to be simultaneously deployed in Summer 2012.
- There has been progress on some components of the Next Generation pilot projects (i.e., governance model, uniformed presence, information sharing and intelligence, and an outreach and awareness strategy). **s.15(1) - Int'l**

- [Redacted] **s.21(1)(c)**

Next Steps

It is proposed that Ministers agree to the following:

- [Redacted] **s.21(1)(c)**

- finalized concepts of operations approved by Agency Heads by May 30, 2012;
- tabletop exercise to be undertaken in Summer 2012 to ensure appropriate alignment between the governance model and operational components;
- the Outreach and Awareness Strategy to be implemented between August 2012 and November 2012;
- all operational components will be deployed by November/December 2012.

Talking Points for Minister

Introduction of the Presentation

- Richard Wex, Assistant Deputy Minister, Law Enforcement and Policing Branch, Public Safety Canada, will lead us through the Next Generation presentation.
- You will recall that we jointly identified Next Generation operations as a bilateral priority at the last Ministerial CBCF.
- This presentation will allow us to take stock of progress to date and enable us to develop an appropriate work plan to meet our Beyond the Border implementation commitments.

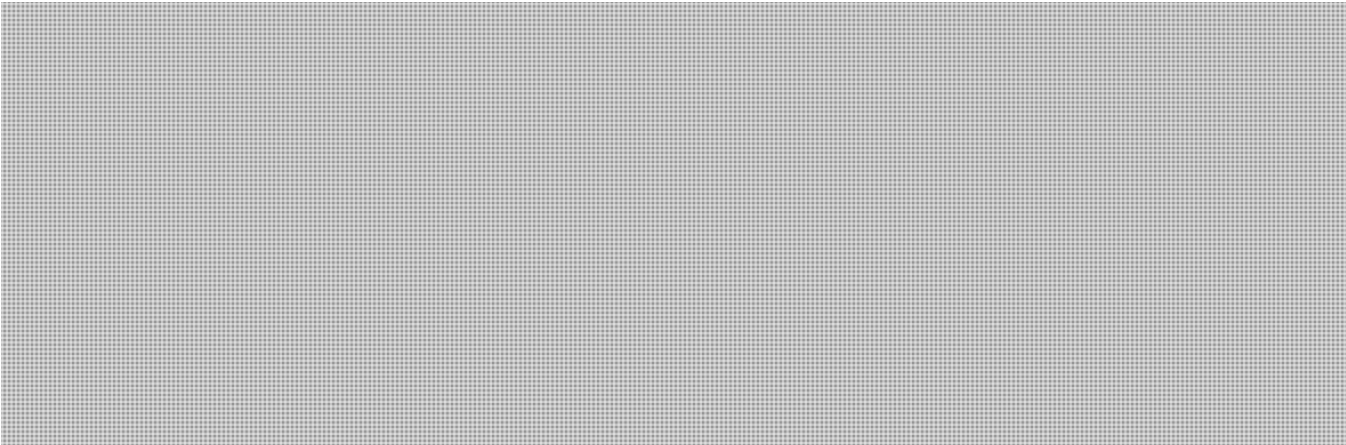
Following Presentation

- Thank you Richard. I would like to acknowledge that there has been some very good progress on the Next Generation concept of operations over the last year.


s.15(1) - Int'l

s.21(1)(a)

s.21(1)(c)

- 

- 

 to meet our Beyond the Border Action Plan commitments.

s.15(1) - Int'l

s.21(1)(a)

s.21(1)(b)

• [Redacted]

This will enable us not only to

realize the implementation timelines in the Beyond the Border

s.15(1) - Int'l Action Plan, but also ensure that we have enough time [Redacted]

s.21(1)(a)

[Redacted]

- I'd now like to open the floor to discussion – are there any comments or questions?

**PROACTIVE COMMENTS FOR MINISTER FOLLOWING PRESENTATION:
LEVEL OF COMMITMENT**

s.15(1) - Int'l

Context:

[Redacted]

Talking Points:

- Collaborative policing models such as IBETs and BEST have worked well for us and we recognize the important work that they do.

- At the same time, we want to build on these successes,

s.15(1) - Int'l

s.21(1)(a)

- We need to

fulfill our Beyond the Border mandate

from Leaders.

-

***RESPONSIVE COMMENTS FOR MINISTER ONLY:
SUPPORTING JOINT INVESTIGATIONS***

s.15(1) - Int'l

Context


s.21(1)(b)

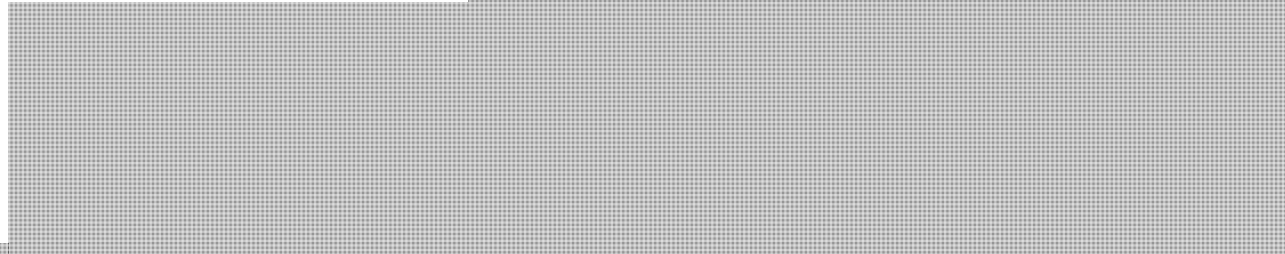
- The Beyond the Border Action Plan committed us to pilot all three operational elements – intelligence, uniformed presence, and joint investigations. All three components support each other, and for maximum effectiveness should be tested together.

s. 5(1) - Int

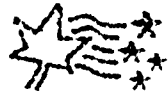
s. 21(1)(a)

- 

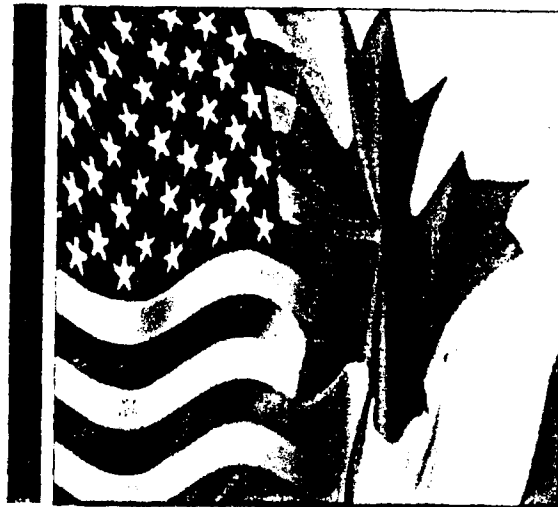
- These are only pilots. 

 move forward with them as laid out in the BTB Action

Plan. We're talking about a limited number of pilots, with a limited duration, that we will then be jointly evaluated.



Canada - U.S. Cross-Border Crime Forum

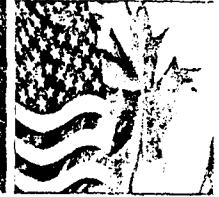


Next Generation Operations

Cross-Border Crime Forum

March 2, 2012

Purpose



- Review progress on the development of “Next Generation” integrated cross-border law enforcement pilot projects.

s.15(1) - Int'l

- Discuss [REDACTED] next steps on the deployment of 2 pilot projects beginning summer, 2012.



Canada - U.S. Cross-Border Crime Forum

Context



- Canada and the United States have successfully developed cooperative border law enforcement models, including Integrated Border Enforcement Teams (IBETs) and Border Enforcement Security Task Forces (BEST).
- “Next Generation” operations identified as an evolution from cooperative law enforcement efforts to truly integrated operations, to prevent the border from being used as a barrier to effective law enforcement.
- Deployment of “Next Generation” pilot projects identified as a key deliverable under the *Action Plan on Perimeter Security and Economic Competitiveness*.
 - *“In addition, we will implement two “Next Generation” pilot projects to create integrated teams in areas such as intelligence and criminal investigations, and intelligence-led uniformed presence between ports of entry.”*
 - *“(The Parties) will complete the scope of operations...for the pilot projects by spring or summer 2012, and two pilots will be deployed simultaneously by summer, 2012.”*



Pilot Projects: At a Glance (1)



Objective	Deter, target, investigate and prosecute cross-border criminal activity
Strategic Priorities	Transnational organized crime: contraband smuggling, human trafficking, money laundering, weapons trafficking, etc.
Key Operational Agencies	US: CBP, ICE-HSI, DEA, ATF, US Marshals, USCG Can: RCMP, CBSA
Main Principles	<ul style="list-style-type: none">• Respect for sovereignty and domestic laws<ul style="list-style-type: none">➤ operations conducted under the direction/management/laws of the host country• Cross-designation/Reciprocity of authorities<ul style="list-style-type: none">➤ U.S. and Cdn officers cross-designated to enforce host country laws➤ selection of involved agencies and individuals at discretion of each country➤ specialized training• Co-location and dedicated resources• Bi-national governance model



Pilot Projects: At a Glance (2)



Objective

Deter, target, investigate and prosecute cross-border criminal activity

Main Components

Operational elements:

- uniformed presence
- joint investigations
- intelligence and information sharing

Shiprider to complement Next Generation Operations

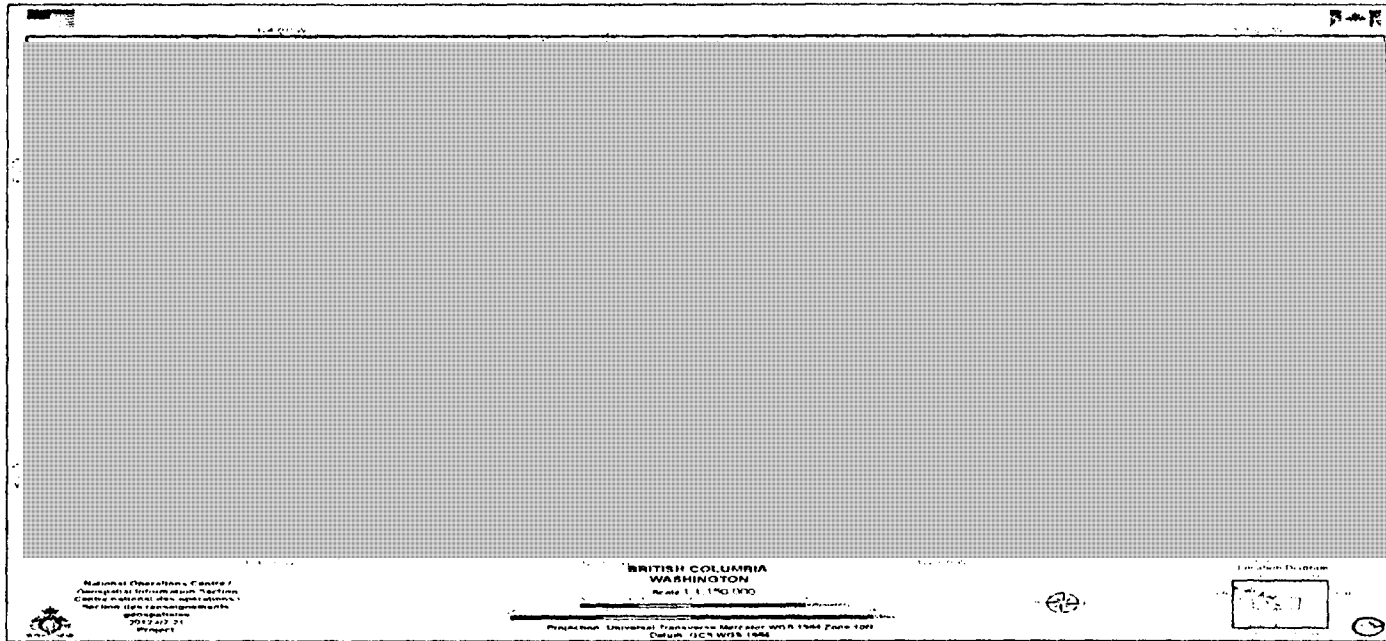
Outreach/Awareness

Duration/Evaluations

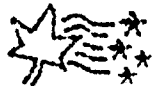


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Pilot Projects: At a Glance (3) BC/Washington State (Rural)

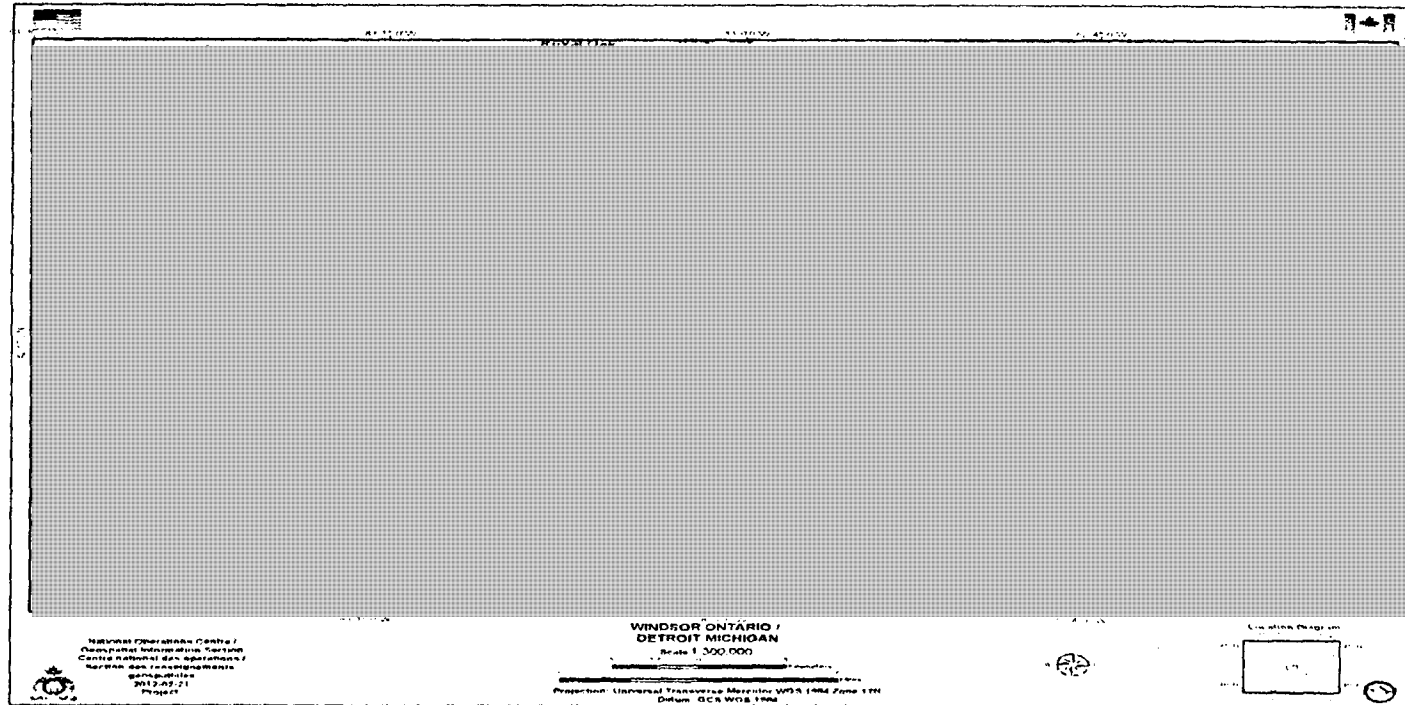


s.15(1) - Int'l
s.15(1) - Subv

Pilot (Rural)	Components			Resources		
	Uniformed Presence	Joint Investigations	Intelligence	Outreach/Awareness	Partner Agencies	Total FTEs
BC/Washington St.						
CDN Personnel				Media advertising Public meetings with stakeholders	RCMP, CBSA, PPSC, CBP, ICE-HSI, DEA, ATF, USCG, US Marshals,, Other LEA (prov/state mun., etc.)	
US Personnel						
 Joint Operations Centre located in Washington						
						Total :

Pilot Projects: At a Glance (4)

Windsor/Detroit Pilot Project (Urban)

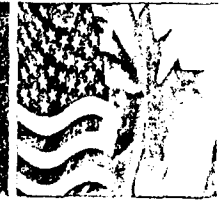


s.15(1) - Int'l
s.15(1) - Subv

Pilot (Urban)	Components			Resources	
Windsor /Detroit	Joint Investigations	Intelligence	Outreach/ Awareness	Partner Agencies	Total FTEs
CDN Personnel US Personnel Joint Operations Centre located in Windsor				Media advertising Public meetings with stakeholders RCMP, CBSA, PPSC, ICE- HSI, DEA, CBP, ATF, USCG, US Marshals , Other LEA (prov/state, municipal)	
					Total: <div style="background-color: #cccccc; width: 20px; height: 15px; display: inline-block;"></div>



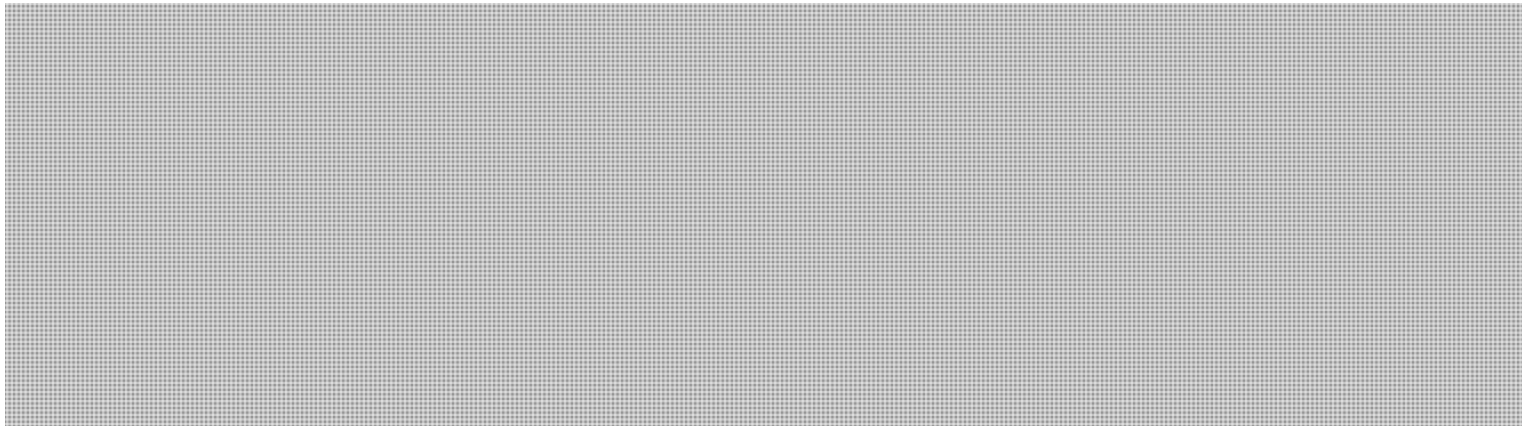
Pilot Projects: Taking Stock



- Good progress on developing scope of operations and program architecture; however much work remains on a range of issues to meet commitments and timeframes identified in *Beyond the Border Action Plan*.

s.15(1) - Int'l
s.21(1)(b)

•



Canada - U.S. Cross-Border Crime Forum

Pilot Projects: Challenges



1. Scope of Operations

s.15(1) - Int'l

- Determine scope of enforcement activities; finalize “concept of operations” for all operational elements; develop standard operating procedures; advance training modules.
- [REDACTED]
- Finalize joint governance model.

2. Inter-agency Cooperation and Partnership

- Build on existing border law enforcement programs to advance Next Generation pilot projects (IBETs, BEST and Shiprider), focusing on collaboration; and
- Manage inter/intra-agency interests

3. Implementation

- Funding: secure resources and facilities for the pilot projects (dedicated and full-time personnel);
- Co-located and joint operations centres; and
- Public Communications: development of coordinated “awareness and outreach campaign” focused on the benefits of Next Generation operations and respect for domestic sovereignty.



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Proposed Way Forward



s.15(1) - Int'l

Scope of Operations finalized by officials

- 
- Approved by Agency Heads (RCMP, CBSA, CBP, DEA, ICE-HSI) by May 30, 2012.

Table Top Exercise in July 2012 to test run scope of operations and governance model

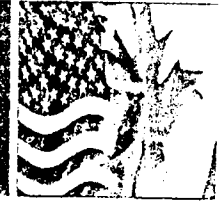
Employ Phased Approach to Deployment of Pilots

- Implementation of Outreach and Awareness Strategy for both pilots, from August 2012 to October, 2012.
- Full deployment of operational elements by December, 2012.



Canada - U.S. Cross-Border Crime Forum

Annex A: Uniformed Presence



s.15(1) - Subv
s.16(1)(b)

Objective:

- To establish a visible, uniformed presence between ports of entry along the border to deter, identify, target, investigate, interdict and prosecute illicit cross-border activity.

Key Activities:

- [REDACTED] and support to joint investigations. Intelligence-led.

Scope of Operations:

- A primary geographic area of operations would be established (i.e., East-West and North-South).
 - Pilot operations in British Columbia/Washington State would run [REDACTED] along the border; pilot operations in Windsor/Sarnia would run [REDACTED] along the border;
 - Up to [REDACTED] away from the border in the US; and up to [REDACTED] away from the border in Canada.
- Designated officers [REDACTED]



Canada - U.S. Cross-Border Crime Forum

Annex B: Joint Investigations



Objective:

- To investigate, disrupt and prosecute organized crime and/or transnational criminal organizations which have a border nexus, operating across the Canada/US border.

Key Activities:

- Developing and handling confidential human sources; conducting surveillance; preparing judicial authorizations; executing search warrants; arresting suspects; seizing evidence; conducting interviews; and providing court testimony.

Scope of Operations:

- No geographic limitations would be placed on inland investigators so long as a border nexus exists.



Annex C: Intelligence and Information Sharing



Objective:

- To collect, analyze and distribute tactical information/intelligence to support the enforcement efforts of both uniformed and investigative activities.

Key Activities:

- Responsible for criminal intelligence uploading, analysis and dissemination through joint targeting/cases as appropriate; development of timely and relevant intelligence products.

Scope of Operations:

- Focused on the sharing of law enforcement information and criminal intelligence.
 - Designated law enforcement officers will collect and share information in strict accordance with the laws of the host country.
 - Appropriate written arrangements will be developed regarding sharing, use, storage of information.



Annex D: Outreach/Awareness



Objective:

- To engage both the public, including key stakeholders and the media to foster awareness of and support for the Next Generation Operations

Key Activities:

- Paid Media (print and broadcast), media releases, social media, literature (i.e., brochures, pamphlets), town-hall meetings, meetings with elected officials, door-to-door communications with border residents, business community (i.e., Chambers of Commerce), regional fairs, etc.

Scope of Operations:

- Community engagement at or near border communities in both Canada and the US
- Concentrated in geographic areas where Next Generation pilot projects are deployed





MEMORANDUM / NOTE DE SERVICE

TO / A

Richard Wex
Assistant Deputy Minister
Law Enforcement and Policing Branch

FROM / DE

Director
Strategic Planning and Coordination Division

SUBJECT / OBJET

Budget Implementation Act: Briefing Materials in support of the Integrated Cross-Border Law Enforcement Act

Security classification	Classification de sécurité
SECRET	
Originator/Telephone number	Auteur/Numéro de téléphone
Our file	Notre référence
RDIMS #598331 (Memo)	
Your file	Votre référence
Date	
April 11, 2012	

Attached please find the package of briefing materials that will address two separate taskings from Parliamentary Affairs, associated with the Integrated Cross-Border Law Enforcement Act and the introduction of the *Budget Implementation Act (BIA), 2012*. The first tasking request is for the following materials, which will be for the use and information of the Minister:

- A. Overview/Backgrounder;
- B. Qs & As;
- C. Clause-by-clause analysis;
- D. Chronology of introduction and progress of previous legislation; and,
- E. Copy of the Bill.

For the second tasking, Tabs A-C will be for the use of the Department of Finance, in order to prepare briefing packages for Parliamentarians who will be studying the Bill.

Please do not hesitate to contact me at 949-1508, should you have any questions.

Douglas May

I concur,

I concur, with attached changes

Richard Wex

Richard Wex

Attachments

INTEGRATED CROSS-BORDER LAW ENFORCEMENT ACT

The proposed legislation provides a statutory basis for the implementation of the *Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America* ("Shiprider").

The Bill contains an interpretative provision that defines certain key expressions in the Bill. This includes: "agreement", "designated officer" and "integrated cross-border operation". The definition of "integrated cross-border operation" in the present Bill contemplates maritime-based integrated cross-border operations as defined in the Shiprider Framework Agreement.

The Bill contains both a Statement of Purpose and a Statement of Principles; the former describes the objectives of integrated cross-border maritime law enforcement operations and the latter reflects the foundational principles that integrated cross-border maritime law enforcement operations must adhere to.

The Commissioner of the Royal Canadian Mounted Police or his/her delegate is designated as the "Central Authority for Canada" on matters related to implementation of the Shiprider Framework Agreement. In cooperation with the Central Authority for the United States, the Central Authority for Canada has responsibility for the direction and management of integrated cross-border law enforcement operations.

The Central Authority for Canada is solely responsible for appointing "designated officers" under the proposed legislation. The proposed legislation identifies those individuals from Canada or the United States that the Central Authority for Canada may appoint as designated officers. These individuals may only be appointed if they have successfully completed training approved by the Central Authority for Canada.

The Bill provides that the Central Authority for Canada may suspend or revoke the appointment of designated officer at any time.

The Bill provides that the Central Authority for Canada is solely responsible for recommending individuals to the Central Authority for the United States for appointment as a cross-border law enforcement officer in the United States.

The Bill provides a designated officer, in the course of an integrated cross-border operation, the status of a peace officer in every part of Canada and the same powers to enforce Acts of Parliament as a member of the Royal Canadian Mounted Police.

The Bill provides clear rules regarding the treatment of a person who is detained or taken into custody in the course of an integrated cross-border operation within Canada. It stipulates that the laws of Canada apply and that no person taken into custody in the course of an integrated cross-border operation can be removed from Canada unless it is done so accordance with Canadian law.

The Bill also provides clear rules regarding the treatment of property that is seized in the course of integrated cross-border law enforcement operations both in Canada and the United States.

The proposed legislation also contains amendments to the *Royal Canadian Mounted Police Act* to provide members of the public the ability to make complaints regarding the conduct of designated officers during the course of integrated cross-border operations. The Central Authority for Canada has the authority to establish rules governing the informal resolution of complaints, but in cases when a complaint is not disposed of informally, it is referred to the Chair of the existing Commission for Public Complaints Against the Royal Canadian Mounted Police. The Commission has the authority to conduct interviews and make recommendations to the Central Authority regarding integrated law enforcement officer conduct.

The Bill also contains a number of consequential amendments to other Acts of Parliament that will be required in order to implement Framework Agreements.

These include:

- The definition of "peace officer" in the *Criminal Code* will be amended to include a "designated officer" within the meaning of the proposed Bill when acting in the course of an integrated cross-border operation or performing incidental activities;
- Given that integrated cross-border operations are trans-boundary in nature, the *Customs Act* will be amended to provide an alternative reporting regime for designated officers when entering or leaving Canada while engaged in integrated cross-border operations.

DIFFERENCES BETWEEN THIS BILL AND FORMER BILL S-13

The Principles Section has been revised:

- A new principle has been added to the legislation which states that integrated cross-border law enforcement operations must "be conducted as directed by a designated officer from the host country." While this principle was captured in the Shiprider Framework Agreement, it was not captured in former Bill S-13. This foundational principle is important to convey to Canadians that command and control of all operations will rest with Canadian law enforcement officials to further bolster oversight and mitigate concerns about diminished Canadian sovereignty.
- A principle has been deleted from the legislation that confirms how operations must be conducted (i.e., directed by joint threat and risk assessments and intelligence driven). This provision has been removed as it is viewed as preambular in nature and the Portfolio, as well as Justice Canada and the Public Prosecution Service of Canada, are of the view that operational partners should not be constrained in their activities by operations that are only intelligence-led and/or only based on joint threat and risk assessments.

A provision has been added to provide for the issuance of certificates validating the status of designated officers and authorize their use as evidence during a criminal proceeding:

- The issuance of certificates provides a means for Crown Attorneys to demonstrate in court that designated officers have appropriate peace officer status while operating in Canada under the terms and conditions of the Framework Agreement.
- The use of certificates during a criminal proceeding will facilitate and ensure more effective prosecutions. The approach is similar to a current provision contained in Section 7 of the *Royal Canadian Mounted Police Act*.

A provision has been added to authorize the Royal Canadian Mounted Police and members of the Royal Canadian Mounted Police to serve as in-take points for public complaints against the conduct of designated officers:

- Expanding the in-take points for public complaints would be consistent with the “no wrong door” approach to receipt of complaints and would be in line with the existing *Royal Canadian Mounted Police Act*.
- Public Safety’s objective in crafting the oversight mechanisms for Shiprider operations has been to emulate, to the greatest extent possible, the existing Royal Canadian Mounted Police public complaints regime.

Penalties for failing to facilitate a public investigation are now limited for United States designated officers:

- Former Bill S-13 exempted all designated officers from summary conviction offences associated with failing to appear or not cooperating as a witness when summoned by the Commission for Public Complaints Against the Royal Canadian Mounted Police (CPC).
- Division 371 of the Bill has been amended to only exempt United States designated officers from the offences given “best effort” commitments contained in the Shiprider Framework Agreement (“best efforts” are viewed as a significantly high commitment from an international treaties perspective).
- From a public policy perspective, it would have been inappropriate to create an oversight regime that would not apply to Canadian designated officers by exempting them from the offences for failing to appear or not cooperating as a witness when summoned by the CPC.

Consequential Amendments to the *Export and Import Permits Act* have been removed:

- The *Export and Import Permits Act* authorizes the Governor in Council to make regulations to exempt any person, goods or technology or any class of persons, goods or technology from the operation of any or all of the provisions of the Act.
- In 2008, regulations were passed that provided an exemption to Canadian and foreign law enforcement officers who, in the course of their duties carried prohibited goods (e.g., firearms) across the border.
- A recent review of these regulations by Public Safety, Justice Canada and the Department of Foreign Affairs and International Trade deemed the related provision in former Bill S-13 as redundant and unnecessary.

**A consequential amendment will be made to the definition of “peace officer” in the
Criminal Code:**

- The definition of “peace officer” will be amended to ensure that designated officers retain appropriate status and associated protections while performing incidental duties such as travelling to work or a meeting, interviewing witnesses or suspects and/or making a court appearance.

PART IV

QUESTIONS & ANSWERS

INTEGRATED CROSS-BORDER LAW ENFORCEMENT ACT

Questions and Answers		Page
<u>HOT ISSUES – QUESTIONS LIKELY TO BE RAISED BY COMMITTEE MEMBERS</u>		
Q1.	What are the differences between this Bill and the former S-13?	3
Q2.	How much will this legislation really cost?	3
Q3.	Will the US have to pass similar legislation and if so, have they already done so?	4
Q4.	Can you ensure that Canadian law enforcement officers working in the US will be afforded the same privileges and protections given to US law enforcement officers?	4
Q5.	Could Shiprider operations be expanded to the Arctic? Could Shiprider operations be undertaken on-ice?	4
Q6.	What will be the scope of operations/geographic range for the aerial support?	4
Q7.	Why not expand this legislation to land-based operations?	5
Q8.	Does DND/CF or the Canadian Coast Guard have a role to play here?	5
Q9.	How do Shiprider operations relate to other Beyond the Border initiatives?	5
Q10.	In terms of information sharing, how would you protect or safeguard Canadian information and privacy?	6
Q11.	Are there any differences in how oversight is applied to Shiprider officers vs members of the RCMP?	7
<u>GENERAL BACKGROUND QUESTIONS AND ANSWERS</u>		
<u>BILL C-38</u>		
Q12.	Why is enacting the Integrated Cross-Border Law Enforcement Operations Act a priority initiative?	7
Q13.	Why are you proposing this legislation?	7

Q14.	What would the legislation do?	8
Q15.	Who can be appointed as a designated officer?	8
Q16.	Under what authority would United States law enforcement officers be entitled to operate in Canadian jurisdiction?	8
Q17.	Would United States law enforcement officers enforce Canadian law in Canada?	9
Q18.	Who is the Central Authority for Canada and what are its roles and responsibilities?	9
Q19.	What precautions have been taken to ensure that Canadian sovereignty is not diminished?	9

SHIPRIDER OPERATIONS

Q20.	What are Shiprider operations?	10
Q21.	What benefits result from the deployment of Shiprider operations?	10
Q22.	How are Shiprider operations different from other binational law enforcement activities?	11

CONSULTATIONS

Q23.	Were stakeholders consulted? If so, who?	11
Q24.	What were the results?	12
Q25.	Did any stakeholders express concern about integrated cross-border law enforcement operations?	14

HOT ISSUES – QUESTIONS LIKELY TO BE RAISED BY COMMITTEE MEMBERS

Q1. What are the differences between this Bill and the former S-13?

- A new principle has been added to the legislation. It states that Shiprider operations must “be conducted as directed by a designated officer from the host country.” While this principle was captured in the Shiprider Framework Agreement, it was not captured in former Bill S-13.
- A principle has been deleted from the legislation. The provision directing operations be deployed exclusively based on joint threat and risk assessments and that they be intelligence-driven has been removed so as not to limit the scope of Shiprider operations.
- A new provision has been added to the Bill providing for the issuance of a certificate to “designated officers” stating that the person to whom it is issued is a designated officer for the purposes of the Integrated Cross-Border Law Enforcement Act and that this certificate is evidence in all courts and proceedings of the facts stated therein.
- A new consequential amendment to the Criminal Code has been added to ensure designated officers retain their peace officer status when performing activities that are incidental to a Shiprider operation.
- A new provision has been added as part to consequential amendments to the *Royal Canadian Mounted Police Act* regarding oversight to add the RCMP and member of the RCMP as intake points for public complaints against the conduct of designated officers.
- Penalties for failing to facilitate an investigation by the Commission for Public Complaints Against the Royal Canadian Mounted Police are limited for United States officers.
- Consequential amendments to the *Export and Import Permits Act* have been removed.

Q2. How much will this legislation really cost?

- There is no funding request for Shiprider operations included in the BIA.
- While the Beyond the Border Action Plan commits the Government to deploy four Shiprider teams, no decisions have been made about funding, and discussions remain ongoing with the US.
- The advantage of having the Shiprider legislation in place is that it can be used at any time in the future, whether guiding regularized operations or ad hoc operations whenever necessary.
- Conducting joint operations will enable Canada and the US to use law enforcement resources more effectively and efficiently.

Q3. Will the US have to pass similar legislation, and if so have they already done so?

- The US already has a legislative framework that authorizes the cross-designation of foreign law enforcement officers to work in the US.
- As such, in 2009 the US signaled via diplomatic note that it has taken the necessary steps to ratify the Shiprider Framework Agreement.

Q4. Can you ensure that Canadian Law enforcement officers working in the US will be afforded the same privileges and protections given to US Law enforcement officers?

- Yes, Canadian law enforcement officers working in the US will be afforded comparable privileges and protections in the US as when working in Canada.
- Both of our legal systems provide similar protections and privileges to law enforcement officers provided that they are working within the scope of duty and that their actions are reasonable and proportionate to the circumstances at hand.

Q5. Could Shiprider operations be expanded to the Arctic? Could Shiprider operations be undertaken on-ice?

- Shiprider operations could conceivably be deployed in the Arctic as long as they were deployed in shared waterways.
- Although not intended to be deployed on ice, Shiprider operations could conceivably be deployed on ice-covered waterways if two conditions were met: they were being undertaken in a jointly crewed vessel by designated officers and the operations were being conducted in shared waterways.

Q6. What will be the scope of operations/geographic range for the aerial support?

- There is no specified geographic scope for aerial support activities, but the aerial activities must be in direct support of Shiprider operations. Pilots themselves would not be involved in any direct law enforcement efforts and their activities are limited to providing surveillance and basic situational awareness of the maritime environment.
- Aerial support activities could also be provided to designated officers on-land in exigent circumstances when a pursuit moves from water to land.
- While pilots or crews may be armed with their standard police issued equipment, including firearms, the actual aircraft themselves would not be armed. It is important to recognize that pilots or crew would not be directly involved in operational law enforcement activities, such as affecting arrests, and the cross-designation of pilots is only required to provide the appropriate legal protections associated with transiting back and forth across the border.

- While aerial support activities are not required to be jointly crewed, all support activities would be conducted under the directed and control of host country officers via the operations centre.

Q7. Why not expand this legislation to land-based operations?

- The Shiprider Framework Agreement and this legislation were carefully crafted based on experiences and lessons learned from several pilot projects as well as detailed consultations with stakeholders.
- Prior to advancing more enabling legislation to cover land-based operations, it would be prudent to conduct similar pilot projects to assess the concept of operations for land-based operations.
- In fact, the BTB calls for the deployment of such pilot projects for later this summer.
- If the pilots went well and assuming that another Framework could be negotiated, then it would be possible at that time to amend this legislation to be more enabling in nature.

Q8. Does DND/CF or the CCG have a possible role to play here?

- No, cross-designated officers may only be law enforcement officers. In Canada, this would include the RCMP or a provincial/municipal law enforcement officer.
- As such, there is no role for the Navy or for the Canadian Coast Guard.

Q9. How does Shiprider relate to other BTB initiatives?

- Shiprider operations complement the overall direction of BTB initiatives by seeking to identify and stop threats prior to them entering the country. "Pushing the borders out" is a key theme of the BTB and Shiprider is consistent with this approach.
- There are some similarities with other initiatives, such as preclearance, in that we are looking at cross-designating officials in each of our respective countries in pursuit of new and innovative ways to work better together.
- Shiprider operations also relate closely to other initiatives seeking to enhance domain awareness at the border and will benefit from the radio interoperability action item.
- These approaches can help both our security and economic competitiveness agendas.

Q10. In terms of info-sharing, how would you protect or safeguard Canadian information and privacy?

- The information sharing framework was crafted to be as protective as possible of the privacy of Canadians, while allowing officers to share the necessary information to support each other and carry out Shiprider operations.
- The Agreement establishes the following at Article 14:
 - **Scope:** In order to assist each other, the Parties may share information for the purposes of Shiprider operations.
 - **MOU:** In addition to the Agreement, written sharing arrangements must be executed. As a result, an information sharing MOU was developed by the Parties.
 - **Applicable law for collection:** Information is collected and shared in accordance with the host's country's laws.
 - **Applicable law for subsequent sharing and use:** Subsequent sharing is done according to the Agreement and MOU, but is always subject to the recipient's domestic laws. The MOU may derogate from the default regime established in the Agreement for use and subsequent sharing of information. It should be noted that the MOU that was negotiated maintains that set of rules.
 - **Procedure for subsequent sharing and use for a different purpose:** The default regime in the Agreement limits use and further sharing of information for purposes of integrated cross-border law enforcement operations (this includes all modes). If the recipient wants to further share or use information for a purpose other than integrated cross-border law enforcement operations, consent must be obtained from the sharing agency. If the recipient is obligated to further share information under its domestic laws, notification of such sharing must be provided to the sharing agency prior to the sharing, or in case of exigent circumstances, as soon as reasonable possible.
 - **Extra protection:** It should be noted that added protection was included at 14(6) of the Agreement: the originator of the information may place additional restrictions on the use and further sharing of information. The recipient may abide by these conditions or decline to receive it if it cannot abide by them. This measure is available for situations where information may be particularly sensitive.

Q11. Are there any differences in how oversight is applied to Shiprider officers vs Members of the RCMP?

- Oversight provisions will largely mirror those contained in the current RCMP Act with four exceptions:
 - public complaints can also be made directly to the Commission for Public Complaints Against the Royal Canadian Mounted Police and provincial oversight bodies;
 - joint investigations could be undertaken between the Commission and other review bodies (e.g., provincial or US);
 - reports on public complaints would be shared with all provincial ministers responsible for policing where integrated operations take place; and
 - US designated officers would not be subject to penalties for failing to facilitate a public investigation.

GENERAL BACKGROUND QUESTIONS AND ANSWERS

BILL C-38

Q12. Why is enacting the Integrated Cross-Border Law Enforcement Operations Act a priority initiative?

- The Enactment of the *Integrated Cross-Border Law Enforcement Operations Act* is important given that the *Canada-US Beyond the Border Action Plan* commits the Government of Canada to ratifying the Shiprider Framework Agreement by Winter 2011-12 and to deploying regularized Shiprider operations by Summer 2012.
- Incorporating this legislation in the *Budget Implementation Act* will ensure that the Government realizes these commitments.

Q13. Why are you proposing this legislation?

- We are proposing this legislation in order to ensure that a robust legal framework is in place to support this innovative model for bilateral law enforcement cooperation. This is required in order to:
 - ensure that Canada's sovereignty is respected, and to more effectively combat organized criminal activity along the Canada-United States maritime border;
 - ensure adequate protection for the participating law enforcement officers;
 - enhance the effectiveness and viability of cross-border criminal investigations and any ensuing prosecutions by ensuring that the underlying law enforcement activity is carried out in accordance with the rule of law; and,

- ensure that the rights of all persons in Canada and the US affected by integrated cross-border maritime law enforcement initiatives are respected through clear legislative and regulatory instruments.

Q14. What would the legislation do?

- The Bill would:
 - consistent with the Framework Agreement, establish as a matter of law, the foundational principles under which integrated cross-border maritime law enforcement operations would be conducted;
 - designate the Commissioner of the Royal Canadian Mounted Police as the Central Authority for Canada on matters related to implementation of the Framework Agreement;
 - clearly identify which law enforcement officers in both countries could be appointed to participate in integrated cross-border maritime law enforcement operations;
 - clearly define where integrated cross-border maritime law enforcement operations would be conducted;
 - provide designated officers from Canada and the United States with the authority to enforce respective domestic laws on both sides of the border during the course of operations;
 - provide legislative amendments to existing Acts that would will be required in order to implement the Framework Agreement; and,
 - identify a public complaints process that would address complaints concerning the conduct of designated officers involved in integrated cross-border maritime law enforcement operations.

Q15. Who can be appointed as a designated officer?

- Members of the Royal Canadian Mounted Police, United States Coast Guard, peace officers appointed under the laws of a province or state, and pilots and crew of aerial support operations may participate in integrated operations. Designated officers would be granted peace officer status and powers in the respective jurisdictions of each country.

Q16. Under what authority would United States law enforcement officers be entitled to operate in Canada?

- The *Integrated Cross-Border Law Enforcement Operations Act* provides that individuals appointed as “designated officers” under the Act shall all be vested with the same authority to enforce Acts of Parliament as a member of the Royal Canadian Mounted Police in every part of Canada during an integrated cross-border operation.

- The definition of “peace officer” in the *Criminal Code* is amended to include a designated officer appointed under the *Integrated Cross-Border Law Enforcement Operations Act*.

Q17. Would United States law enforcement officers enforce Canadian law in Canada?

- Yes. While in Canada, designated officers from Canada and the United States could only enforce Canadian law. The United States law enforcement officers would be operating under the direction and control of the Canadian law enforcement officer.
- In the United States, Canadian designated officers would only enforce United States law and in doing so would be under the direction and control of their United States counterparts.

Q18. Who is the Central Authority for Canada and what are his/her roles and responsibilities?

- The Central Authority for Canada is the Commissioner of the Royal Canadian Mounted Police or his/her designate.
- The Central Authority's roles and responsibilities include the appointment of designated officers, the development of appropriate training standards, the direction and management of day-to-day operations, the possible discipline of designated Royal Canadian Mounted Police officers, as well as playing an active role in the informal resolution of complaints in the public complaints process.
- Importantly, the Central Authority for Canada will work in close cooperation with the Central Authority of the United States to ensure a consistent and coordinated approach to the deployment and conduct of Shiprider operations.

Q19. What precautions have been taken to ensure that Canadian sovereignty is not diminished?

- The Act contains a *Statement of Principles* that provides that integrated cross-border maritime law enforcement operations will respect the sovereignty of Canada and the United States. It specifically stipulates that such operations conducted in Canada will be carried out in accordance with the rule of law and respect the individual rights and freedoms constitutionally protected under the *Canadian Charter of Rights and Freedoms*.
- Designated officers must be appointed by both the Canadian and the United States Central Authorities. All United States designated officers would complete mandatory training in Canadian law and would also be required to operate under the direction and control of a Canadian law enforcement officer.

- The Act expressly states that in all cases where a person is detained or taken into custody within Canada, during the course of an integrated cross-border operation Canadian laws will apply and that no person taken into custody during the course of an integrated cross-border operation may be removed from Canada except in accordance with the laws of Canada.

SHIPRIDER OPERATIONS

Q20. What are Shiprider operations?

- They are integrated joint maritime law enforcement operations in shared Canadian and United States waterways in which both Canadian and United States law enforcement officials will participate.
- Designated officers working together in teams would be able to respond to and interdict criminal activities on either side of the border.
- The ability of designated officers to carry out their investigations on either side of the border means that those involved in cross-border criminal activity on our shared waterways will no longer be able to frustrate the efforts of law enforcement officials by simply crossing across the border in order to evade arrest and prosecution.
- All operations would be conducted under the operational control of law enforcement officers of the "host" country, assisted by the law enforcement officers of the "visiting" country. In Canadian waters, for example, operations would be subject to Canadian laws and procedures and conducted under the direction and management of a Canadian law enforcement officer. The reverse would apply when the designated officers are operating in United States waters.

Q21. What benefits result from the deployment of Shiprider operations?

- Integrated cross-border maritime law enforcement operations will have many benefits for both Canada and the United States, including allowing both countries to leverage existing law enforcement resources, providing for a seamless law enforcement presence at the border and enhancing the operational flexibility of law enforcement.
- These fully integrated operations will allow Canada and the United States to make better use of border law enforcement resources and to deploy those resources more broadly along the border, thereby, maximizing enforcement range and capability. This unique and innovative model of fully integrated law enforcement cooperation in the maritime environment could serve as a model for other integrated cross-border law enforcement initiatives in the future, such as Next Generation.

Q22. How are integrated cross-border maritime law enforcement operations different from other binational law enforcement activities?

- These operations are unique because of their fully integrated nature.
- Of particular note, is the reciprocal appointment of individual Canadian and US law enforcement officers as “designated officers” with the power to enforce the law in each others’ territory. This is what enables both Canada and the United States to conduct seamless law enforcement operations across the border as well as assist one another in the enforcement of respective domestic laws.
- While other programs exist to strengthen law enforcement cooperation, such as Integrated Border Enforcement Teams, these programs are not fully integrated and do not involve granting peace officer status or authorities to either Canadian or United States law enforcement officers.

CONSULTATIONS

Q23. Were stakeholders consulted? If so, who?

- In July 2008, Public Safety Canada and Justice Canada began consultations with a number of key stakeholders including, provincial Attorneys General, police associations, local governments and aboriginal groups in close proximity to the border; civilian law enforcement oversight bodies; and, the Canadian Bar Association, the Barreau du Québec and defence lawyers associations. These consultations concluded in April 2009.
- The stakeholders were provided a consultation paper outlining the concept of integrated cross-border law enforcement operations and associated principles, and invited to respond to a number of questions.
- The key stakeholders included:
 - Provincial Attorneys General
 - Canadian Association of Chiefs of Police
 - Canadian Association of Police Boards
 - Canadian Association for Civilian Oversight of Law Enforcement
 - First Nations Chiefs of Police Association
 - Canadian Bar Association
 - Barreau du Québec
 - Canadian Council of Criminal Defence Lawyers
 - Canadian Criminal Lawyers Association
 - Canadian Civil Liberties Association
 - Mohawk Council of Akwesasne
 - Assembly of First Nations
 - Native Women’s Association of Canada
 - Stewart, British Columbia
 - St. Stephen, New Brunswick
 - Deer Island, New Brunswick
 - Pohenegamook, Quebec

- Clair, New Brunswick
 - Woodstock, New Brunswick
 - Campobello Island, New Brunswick
 - Edmundston, New Brunswick
 - St. Leonard, New Brunswick
 - St. Croix, New Brunswick
 - Windsor, Ontario
 - Sarnia, Ontario
 - Sault Ste. Marie, Ontario
 - Rainy River, Ontario
 - Fort Frances, Ontario
 - Coutts, Alberta
 - Fort Erie, Ontario
 - Wolfe Island, Ontario
 - Queenston, Ontario
 - Cornwall, Ontario
 - Niagara Falls, Ontario
 - Prescott, Ontario
 - North Portal, Saskatchewan
 - Rock Island, Québec
 - Stanhope, Québec
 - Surrey, British Columbia
 - Abbotsford, British Columbia
- In August 2011, the Beyond the Border Working Group released its summary of public consultations entitled, *"Perimeter Security and Economic Competitiveness: a Report on Consultations on Perimeter Security and Economic Competitiveness between Canada and the United States"*.
 - Participants included private citizens, the Canadian Council of Chief Executives, the Customs and Immigration Union, the Federation of Canadian Municipalities, some border communities and provinces, such as Saskatchewan and Ontario, municipal police forces, the Assembly of First Nations, the Canadian Civil Liberties Association and the Privacy Commissioner.

Q24. What were the results?

- During the 2008 – 2009 consultations, lawyers organizations, while asserting that they required greater detail about integrated cross-border law enforcement operations, commented that a framework for guiding such initiatives in future could be beneficial to the extent it emphasizes fundamental principles such as accountability, transparency, and adherence to Canadian law and the Canadian Charter of Rights and Freedoms.
- There was consensus in the legal and law enforcement communities that if integrated cross-border law enforcement operations are to become regularized, issues such as designation, authorities and control, training, implementation of necessary legislation, established protocols and procedures, accountability, agreed-upon enforcement standards and information sharing, would have to be effectively

addressed in a bilateral framework agreement.

- In the *“Perimeter Security and Economic Competitiveness: a Report on Consultations on Perimeter Security and Economic Competitiveness between Canada and the United States”*, Canadians told the Working Group about the Integrated Law Enforcement pillar of the *Beyond the Border* was that views were mixed. Almost half of individual submissions opposed further cross-border law enforcement collaboration between Canada and the United States while others called for an open border with more joint enforcement and cooperation in support of a common perimeter.
- For example, the Canadian Council of Chief Executives and the Customs and Immigration Union called for the expansion of existing bilateral law enforcement partnerships. The Federation of Canadian Municipalities, some border communities and provinces, such as Saskatchewan and Ontario, recommended a deeper level of engagement with municipal police forces as part of the development of joint enforcement programs. The Assembly of First Nations recommended that Canadian First Nations and United States tribal police forces also be included in cross-border law enforcement activities.
- Other stakeholders such as the Canadian Civil Liberties Association called for protocols that would prohibit the secondary use of information obtained in the context of a cross-border law enforcement operations and the Privacy Commissioner asked that the highest levels of privacy protection be applied to cross-border law enforcement activities. Many submissions from individual Canadians expressed concern about greater collaboration between Canada and the United States on cross-border law enforcement issues and were specifically focused on information sharing, loss of national sovereignty and the protection of civil liberties as key associated issues. Canadians also proposed the establishment of redress mechanisms for persons unjustly or negatively affected by cross-border law enforcement activities.

Q25. Did any stakeholders express concern about integrated cross-border law enforcement operations?

- The Municipality of Lacolle, Québec, was opposed to the concept of integrated cross-border law enforcement operations. The Mayor of Lacolle expressed concern that United States law enforcement officers would be permitted to participate in law enforcement operations within Canada and that the *Criminal Code* would be amended to designate United States law enforcement officers as peace officers in Canada.
- Alternatively, the Mayor of Lacolle indicated that his community would prefer that teams made up of law enforcement officers from the Royal Canadian Mounted Police, the Canada Border Services Agency, and provincial and municipal police agencies be mandated to strengthen border integrity.
- The Mohawk Council of Akwesasne in the Cornwall-Massena area expressed concern about future integrated cross-border maritime law enforcement operations on or near its community, which could be perceived as an encroachment on territorial lands.
- The Ministers of Public Safety and Justice have committed to maintain a meaningful consultative dialogue with Akwesasne prior to any implementation of integrated cross-border maritime law enforcement operations at or around Akwesasne.
- Concerns were expressed by several groups that if integrated cross-border law enforcement operations were to become regularized, issues such as designation, authorities and control, training, accountability and oversight, admissibility of evidence, enforcement standards and information sharing would have to be addressed, which they have in the Act.

PART IV

CLAUSE-BY-CLAUSE

INTEGRATED CROSS-BORDER LAW ENFORCEMENT ACT

SHORT TITLE

SECTION 1 *"Short Title"*

Explanation

Section 1 provides a short title for the Act.

INTERPRETATION

SECTION 2 "Agreement"

Explanation

Section 2 provides definitions for certain expressions contained in the act.

For the purposes of this legislation, an agreement refers to a agreement between Canada and the united states to undertake integrated cross-border maritime law enforcement operations.

The Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America was signed on May 26, 2009.

SECTION 2 "Designated officer"

Explanation

Care was taken to narrowly define "designated officer" in order to control who could participate in an "integrated cross-border maritime operation".

On being appointed by both the Canadian and United States Central Authorities a designated officer will be authorized to enforce the same Acts of Parliament as a member of the Royal Canadian Mounted Police.

Section 5 identifies the Central Authority for Canada.

Sections 7 and 8 describe who is eligible for appointment and the criteria for appointment.

INTERPRETATION

SECTION 2 “integrated cross-border operation”

Explanation

The bill narrowly defines “an integrated cross-border operation” in order to control the scope of such activities to marine-based operations in shared, but undisputed areas, along the border.

These operations would involve the deployment of law enforcement vessels crewed jointly by teams of both Canadian and United States “designated officers” vested with the power to enforce Canadian law in Canada and United States law in the United States during marine-based operations in shared, but undisputed, areas along the border.

PURPOSE

SECTION 3 "Purpose"

Explanation

Section 3 of the Act provides a clear statement of the purpose of the Act: to permit the implementation of the Integrated Cross-Border Maritime Law Enforcement Framework Agreement between the Government of Canada and the Government of the United States of America.

PRINCIPLES

SECTION 4 "Statement"

Explanation

Section 4 of the Act provides a *Statement of Principles*.

Paragraph 4(a) of the Act recognizes that both Canada and the United States of America have a common interest in the security of their shared maritime boundary.

Paragraph 4(b) of the Act reflects the foundational principles under which integrated cross-border law enforcement operations would be conducted.

The *Statement of Principles* makes clear that integrated cross-border operations must:

- respect the sovereignty of both countries;
- be conducted in accordance with the rule of law;
- be conducted as directed by a designated officer of the host country.

Paragraph 4(c) of the Act requires that integrated cross-border law enforcement operations in Canadian territory respect the individual rights and freedoms constitutionally protected under the *Canadian Charter of Rights and Freedoms*.

THE CENTRAL AUTHORITY FOR CANADA

SECTION 5 "Designation"

Explanation

Section 5 of the Act designates the Commissioner of the Royal Canadian Mounted Police or his or her designate to be the Central Authority for Canada for all matters related to the implementation of an agreement.

THE CENTRAL AUTHORITY FOR CANADA

SECTION 6 “Direction and Management”

Explanation

Section 6 of the Act assigns the direction and management of integrated cross-border operations under the Agreement to the Central Authority for Canada in coordination with the Central Authority for the United States.

THE CENTRAL AUTHORITY FOR CANADA

SUBSECTION 7(1) "Appointment of officers from Canada"

Explanation

Section 7 of the Act assigns to the Central Authority for Canada the authority to appoint individuals as designated officers from Canada as well as setting out the criterion for such an appointment.

Paragraph 7(1)(a) of the Act provides for the appointment of a member of the RCMP to participate in integrated operations.

Paragraph 7(1)(b) of the Act provides for the appointment of police officers appointed under the laws of a province.

Paragraph 7(1)(c) of the Act provides for the appointment of a person who a pilot, co-pilot, observer or other member of the crew of an aircraft that is operated by a police service described in paragraphs 7(1)(a) or (b) providing aerial support to such an operation.

SUBSECTION 7(2) "Criterion for appointment"

Explanation

Subsection 7(2) of the Act requires the satisfactory completion of mandatory training for an individual described in subsection 7(1) in order to be appointed as a designated officer. That training is approved by the Central Authority for Canada.

THE CENTRAL AUTHORITY FOR CANADA

SUBSECTION 8(1) "Appointment of officers from United States"

Explanation

Section 8 of the Act authorizes the Central Authority for Canada to appoint specific individuals from the United States.

Subsection 8(1) of the Act identifies the classes of individuals who may be appointed. Paragraph 8(1)(a) provides for the appointment of United States Coast Guard personnel.

Paragraph 8(1)(b) of the Act provides for the appointment of a police officer or other law enforcement officer appointed or employed under the law of the United States or of a state of the United States.

Paragraph 8(1)(c) of the Act provides for the appointment of a pilot, co-pilot, observer or other member of the crew of an aircraft that is operated by a police service described in paragraphs 8(1)(a) or (b) providing aerial support to such an operation.

SUBSECTION 8(2) "Criteria for appointment"

Explanation

Subsection 8(2) of the Act requires that before an individual described in subsection 8(1) may be appointed as a designated officer he or she must have been recommended for appointment by the person designated as the Central Authority for the United States and have satisfactorily completed required training. That training is approved by the Central Authority for Canada.

THE CENTRAL AUTHORITY FOR CANADA

SECTION 9 "Suspension or revocation"

Explanation

Section 9 of the Act provides for the suspension or revocation of a designated officer's appointment.

THE CENTRAL AUTHORITY FOR CANADA

SUBSECTION 10(1) "Certificates"

Explanation

Section 10(1) of the Act provides for the issuance of certificates to designated officers attesting that the officers have been designated for the purposes of the Act.

SUBSECTION 10(2) "Evidence of appointment or designation"

Explanation

Subsection 10(2) of the Act states that any certificate referred to in 10(1) is evidence in all proceedings of the facts therein.

THE CENTRAL AUTHORITY FOR CANADA

SECTION 11 “Recommendation for appointment”

Explanation

Section 11 of the Act provides that the Central Authority for Canada may recommend the following individuals to the Central Authority for the United States for appointment as a cross-border law enforcement officer:

- a member of the Royal Canadian Mounted Police;
- a police officer appointed or employed under the law of a province; or
- a pilot, co-pilot, observer or other member of the crew of an aircraft that is operated by the Royal Canadian Mounted Police or a police service established under the law of a province and that is used to provide aerial support in an integrated cross-border operation.

POWERS OF DESIGNATED OFFICERS

SECTION 12 “Powers of designated officers”

Explanation

Section 12 of the Act provides that individuals from Canada appointed as designated officers from Canada under section 7 of the Act and individuals from the United States appointed as designated officers from the United States under section 8 of the Act shall all be vested with the same authority to enforce Acts of Parliament as a member of the Royal Canadian Mounted Police when:

- participating in an integrated cross-border operation;
- engaging in activity incidental to an operation, such as travel to a work site or for the purpose of appearing in court.

DETENTION OF PERSONS

SUBSECTION 13(1) "Persons taken into custody"

Explanation

Subsection 13(1) of the Act expressly states that in all cases where a person is detained or taken into custody within Canada, during the course of an integrated cross-border operation, Canadian laws will apply.

SUBSECTION 13(2) "Removal from Canada"

Explanation

Subsection 13(2) of the Act expressly states that no person taken into custody within Canada during the course of an integrated cross-border operation may be removed from Canada except in accordance with the laws of Canada. This subsection bars extra-judicial removals from Canada.

Related Clauses:

It is important to note that in contrast to the provisions in the Act that would permit the temporary removal from Canada of a thing seized within Canada during the course of an integrated cross-border operation in exceptional circumstances (s.14) and a corresponding exemption from the application of Canadian laws governing the export and import of such items (s.16) in such situations, there is no similar ability to remove an individual detained or taken into custody within Canada from Canada and no exemption from the application of Canadian laws with respect to the removal of an individual from Canada.

SEIZURE

SUBSECTION 14(1) "Vessels, etc. seized in Canada"

Explanation

Subsection 14(1) of the Act expressly states that in all cases where a thing is seized within Canada during the course of an integrated cross-border operation, Canadian laws will apply.

SUBSECTION 14(2) "Removal from Canada"

Explanation

Subsection 14(2) of the Act prohibits the removal of a thing seized within Canada during the course of an integrated cross-border operation unless done so in accordance with Canadian laws or with subsection 14(3) of the Act.

SUBSECTION 14(3) "Exception"

Explanation

Subsection 14(3) of the Act authorizes the removal of a thing that is seized within Canada during the course of an integrated cross-border operation in situations of operational or geographic necessity, such as:

- participation in continuing integrated operations or responding to an emergency in the United States;
- poor weather or mechanical difficulties necessitating passage through the United States; and
- navigable shipping channels from one location in Canada to another location in Canada requiring passage through the United States.

SEIZURE

SECTION 15 "Vessels, etc. seized in United States"

Explanation

Section 15 of the Act stipulates that when a thing lawfully seized in the United States is transported through Canada due to circumstances of operational or geographic necessity, the thing remains under the custody and control of the designated enforcement officer of the United States.

Some exceptional circumstances are:

- participation in continuing integrated operations or responding to an emergency in the Canada;
- poor weather or mechanical difficulties necessitating passage through Canada; and
- navigable shipping channels from one location in the United States to another location in the United States requiring passage through Canada.

SEIZURE

SECTION 16 “Non-application of certain laws”

Explanation

Section 16 of the Act expressly exempts designated officers from offences under any Act of Parliament pertaining to the import or export of a vessel or other conveyance or other thing in situations of “operational or geographical necessity” which force them to cross the border into the other country’s territory. These include circumstances when the designated officers are required to participate in a continuing integrated cross-border operation or respond to an emergency; when poor weather or mechanical difficulties with a vessel or other conveyance operated by designated officers arises; or when the navigable shipping channels make it necessary to transit through the other country. This limited exemption from the application of certain Acts of Parliament protects designated officers from criminal liability for the import or export of a vessel or other thing when, in situations of “operational or geographical necessity”.

Related Clauses:

It is important to note that in contrast to the provisions in the Act that would permit the removal from Canada of a thing seized within Canada during the course of an integrated cross-border operation in exceptional circumstances (s.14) and a corresponding exemption from the application of Canadian laws governing the export and import of such items (s.16) in such situations, there is no similar ability to remove an individual detained or taken into custody within Canada from Canada and no exemption from the application of Canadian laws with respect to the removal of an individual from Canada. Moving an individual outside Canadian territory would be in contravention of Canadian laws.

AMENDMENTS TO THE ROYAL CANADIAN MOUNTED POLICE ACT

DIVISION 369(45.48) "Definitions"

Explanation

Division 369(45.48) of the Act describes a public complaints mechanism for the conduct of designated officers.

Amendments to the *Royal Canadian Mounted Police Act* will be made to define "Central Authority", "designated officer" and "integrated cross-border operation" in the same manner as they are for this legislation.

DIVISION 369(45.49(1)) "Complaints by public"

Explanation

Division 369(45.49(1)) indicates that any member of the public may make a complaint about the conduct of designated officers to the Commission, a provincial oversight authority or a member of the Royal Canadian Mounted Police. Under the existing *Royal Canadian Mounted Police Act*, only those members of the public directly affected by the performance of any duty or function during the course of an integrated cross-border operation are permitted to make a complaint and, moreover, they are only authorized to do so with respect to the Royal Canadian Mounted Police.

This provision broadens the scope of reviewable activities to include integrated cross-border operations, provides greater transparency to the public complaints process, and entrenches the broader public role and interest in the complaints process.

DIVISION 369(45.49(2)) "Acknowledgment of complaint"

Explanation

Division 369(45.49(2)) of the Act requires the Commission to acknowledge receipt of complaints in writing.

AMENDMENTS TO THE ROYAL CANADIAN MOUNTED POLICE ACT

DIVISION 369(45.49 (3)) “Notification – Central Authority and Commission”

Explanation

Division 369(45.49(3)) of the Act requires the Commission to notify the Central Authority for Canada of every complaint received and ensure that the Commission is notified of all complaints made to a provincial authority.

DIVISION 369(45.49 (4)) “Notification - designated officer”

Explanation

Division 369(45.49(4)) of the Act requires the Central Authority for Canada to notify the designated officer whose conduct is the subject matter of the complaint of the substance of the complaint.

DIVISION 369(45.5 (1)) “Application of certain sections”

Explanation

Division 369(45.5(1)) incorporates the existing public complaints process used by the Commission to review all complaints against the Royal Canadian Mounted Police for the purposes of reviewing the conduct of designated officers, with certain modifications, notably replacing a reference to the Commission with a reference to the Central Authority and a reference to a member of the Royal Canadian Mounted Police with a designated officer.

DIVISION 369(45.5 (2)) “Joint investigation”

Explanation

The Commission will be granted authority to conduct joint investigations with provincial or other review bodies that are responsible for investigations of public complaints in that jurisdiction. This reduces duplication of efforts relating to the undertaking of separate investigations, reviews, inquiries, or hearings on the same event or conduct.

AMENDMENTS TO THE ROYAL CANADIAN MOUNTED POLICE ACT

DIVISION 369(45.5 (3)) "Reports"

Explanation

This provision provides for sharing the report with all the provinces in which complaints directed at integrated cross-border law enforcement operations occur.

DIVISION 369(45.51) "Annual Report"

Explanation

A copy of the annual report of activities of the Commission will be shared with all provinces where integrated cross-border maritime law enforcement operations take place.

AMENDMENTS TO THE ROYAL CANADIAN MOUNTED POLICE ACT

DIVISION 370(50.1) "Exception"

Explanation

This provision exempts designated officers as defined in section 45.48 who are appointed under subsection 8(1) from the summary conviction offence set out in Section 50 of the *Royal Canadian Mounted Police Act* for offences associated with failing to appear or not cooperating as a witness when summoned by the Commission.

Specifically, only United States designated officers would be exempt from the offences given "best effort" commitments contained in the Shiprider Framework Agreement ("best efforts" are viewed as respecting a significantly high legal threshold within the international context). This exemption would not apply to Canadian designated officers.

CONSEQUENTIAL AMENDMENTS TO THE CRIMINAL CODE

DIVISION 371

Explanation

Division 371 of the Act amends the definition of “peace officer” in section 2 of the *Criminal Code* to include a designated officer appointed under the *Integrated Cross-Border Law Enforcement Act* when:

- participating in an integrated cross-border operation; and
- engaging in incidental activities.

This amendment provides designated officers the same authority, protections and privileges enjoyed by all Canadian police officers.

As a Canadian “peace officer”, a designated officer engaging in integrated cross-border operations in Canada is authorized to carry firearms, ammunition and other standard law enforcement weapons.

Vested with Canadian peace officer status, a United States designated officer would have authority to assist in the enforcement of the Canadian laws including making arrests with or without a warrant.

Section 117.07 of the *Criminal Code* exempts persons with Canadian peace officer status from offences under the *Criminal Code* or the *Firearms Act* with regard to the possession, import or export of a firearm, a prohibited weapon, a restricted weapon, a prohibited device, any prohibited ammunition or an explosive substance in the course of or for the purpose of the public officer’s duties or employment.

Related Clauses:

Section 12

CONSEQUENTIAL AMENDMENTS TO THE CUSTOMS ACT

DIVISIONS 372 – 373

Explanation

Divisions 372 and 373 of the Act amend the *Customs Act* to clarify the alternative reporting regime for designated officers under s 11.1(1) of the *Customs Act*, except in proscribed circumstances.

A person arriving in Canada must report in person, at a customs office without delay. Similarly, a person in charge of a conveyance must ensure that crew and passengers report in person to a customs office without delay.

The Minister may authorize a person to present himself or herself in an alternative manner. (*Customs Act* s.11.1(1))

Exceptions may be prescribed by regulation. (*Customs Act* s.11.1(3))

Given the nature of integrated cross-border operations, an alternative reporting regime is required for designated officers, both as to themselves and their conveyances, when entering the waters or territory of Canada while in the performance of their duties.

COMING INTO FORCE

DIVISION 374 "Order in council"

Explanation

The Act provides that the provisions of this Act come into force on a day or days to be fixed by order of the Governor in Council.

PART IV

HISTORIC TIMELINES

INTEGRATED CROSS-BORDER LAW ENFORCEMENT ACT

- 2004** United States Coast Guard proposed the possibility of a "Shiprider" pilot project with the Royal Canadian Mounted Police.
- 2005**
September: Royal Canadian Mounted Police and United States Coast Guard conducted the first Shiprider pilot project in the Windsor-Detroit area.
- 2006**
Jan/Feb: Royal Canadian Mounted Police and United States Coast Guard conducted an integrated marine security operation to support Super Bowl XL in the Detroit – Windsor area.
- 2007**
August: Canada and the United States signalled mutual support for bilateral Shiprider operations at the North American Leaders Meeting in Montebello.
- Aug/Sept: Royal Canadian Mounted Police and United States Coast Guard conducted two-month Shiprider pilot projects between Vancouver and Washington State, and in the St. Lawrence Seaway region.
- 2008**
March: Bilateral negotiations toward a *Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America* are launched at the Canada – United States Cross-Border Crime Forum.
- July: Royal Canadian Mounted Police and United States Coast Guard completed the *Shiprider 2007 Pilot Project Impact Evaluation Final Report*.
- July: Consultations with key Canadian stakeholders regarding the concept of integrated cross-border law enforcement operations are initiated.
- 2009**
April: Consultations with key Canadian stakeholders regarding the concept of integrated cross-border law enforcement operations are concluded.

- May: Minister of Public Safety and United States Secretary of Homeland Security signed the *Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America*.
- September: *Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America* tabled in Parliament.
- November: Bill C-60, *Keeping Canadians Safe (Protecting Borders) Act* introduced in the House of Commons.
- December: Bill C-60 died on the *Order Paper* when Parliament was prorogued on December 31.

2010

- Feb/Mar: Royal Canadian Mounted Police and United States Coast Guard conducted an integrated marine security operation using the Shiprider model to support the Olympic Winter Games in Vancouver.
- June: Royal Canadian Mounted Police and United States Coast Guard conducted an integrated marine security operation using the Shiprider model to support the G-20 in Toronto.
- October: Bill S-13, *Keeping Canadians Safe (Protecting Borders) Act* introduced in the Senate on October 26, 2010.

2011

- February: The Canada – United States *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Declaration* announced by the Prime Minister and the President. Cross-Border Law Enforcement was identified as one of four key pillars of the *Beyond the Border* initiative.
- March: Bill S-13 was passed by the Standing Senate Committee on National Security and Defence with minor technical amendments. It died on the *Order Paper* when Parliament was dissolved on March 26.
- December: The regularization of Shiprider operations by Summer 2012 was identified as a key initiative by the Prime Minister and the President in the *Beyond the Border Action Plan*.

DIVISION 12

INTEGRATED CROSS-BORDER LAW ENFORCEMENT OPERATIONS ACT

Enactment of Act

Enactment

368. The *Integrated Cross-border Law Enforcement Operations Act* is enacted as follows:

An Act to implement a Framework Agreement on Integrated Cross-Border Law Enforcement Operations between the Government of Canada and the Government of the United States of America

SHORT TITLE

Short title

1. This Act may be cited as the *Integrated Cross-border Law Enforcement Operations Act*.

INTERPRETATION

Definitions

2. The following definitions apply in this Act.

"Agreement"
« accord »

"Agreement" means the Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America signed on May 26, 2009.

"designated officer"
« agent désigné »

"designated officer" means an individual appointed as a cross-border maritime law enforcement officer by

SECTION 12

LOI SUR LES OPÉRATIONS TRANSFRONTALIÈRES INTÉGRÉES DE CONTRÔLE D'APPLICATION DE LA LOI

Édiction de la loi

Édiction

368. Est édictée la *La Loi sur les opérations transfrontalières intégrées de contrôle d'application de la loi*, dont le texte suit :

Loi portant mise en œuvre d'un accord cadre sur les opérations transfrontalières intégrées de contrôle d'application de la loi entre le gouvernement du Canada et le gouvernement des États-Unis d'Amérique

TITRE ABRÉGÉ

Titre abrégé

1. *Loi sur les opérations transfrontalières intégrées de contrôle d'application de la loi*.

DÉFINITIONS

Définitions

2. Les définitions qui suivent s'appliquent à la présente loi.

« accord » L'Accord cadre sur les opérations intégrées transfrontalières maritimes d'application de la loi entre le gouvernement du Canada et le gouvernement des États-Unis d'Amérique, conclu le 26 mai 2009.

« accord »
"Agreement"

« agent désigné » Personne physique nommée à titre d'agent chargé du contrôle transfrontalier maritime de l'application de la loi par l'autorité centrale du Canada en vertu des paragraphes

« agent désigné »
"designated officer"

(a) the Central Authority for Canada under subsection 7(1) or 8(1); and

(b) the person designated as the Central Authority for the United States for the application of the Agreement.

7(1) ou 8(1) et par la personne désignée comme autorité centrale des États-Unis pour la mise en œuvre de l'accord.

« opération transfrontalière intégrée » Déploiement d'un bateau dont l'équipage se compose d'agents désignés du Canada et des États-Unis pour le contrôle transfrontalier de l'application de la loi dans les zones non contestées de la mer ou des eaux internes longeant la frontière internationale entre le Canada et les États-Unis.

« opération transfrontalière intégrée »
"integrated cross-border operation"

"integrated cross-border operation"
« opération transfrontalière intégrée »

"integrated cross-border operation" means the deployment of a vessel crewed jointly by designated officers from Canada and the United States for cross-border law enforcement purposes in undisputed areas of the sea or internal waters along the international boundary between Canada and the United States.

PURPOSE

OBJET

Purpose

3. The purpose of this Act is to implement the Agreement, the objectives of which are to provide additional means to prevent, detect and suppress criminal offences and violations of the law in undisputed areas of the sea or internal waters along the international boundary between Canada and the United States and to facilitate the investigation and prosecution of such offences and violations.

3. La présente loi a pour objet la mise en œuvre de l'accord, dont les objectifs consistent à mettre en place des moyens supplémentaires de prévenir, de détecter et de réprimer les infractions criminelles et autres violations de la loi dans les zones non contestées de la mer ou des eaux internes longeant la frontière internationale entre le Canada et les États-Unis; et à faciliter les enquêtes et les poursuites judiciaires à l'égard de ces infractions et violations.

Objet

PRINCIPLES

PRINCIPES

Statement

4. It is recognized and declared that

4. Les principes ci-après sont reconnus et proclamés :

Énoncé

(a) Canada and the United States have a common interest in the security of the undisputed areas of the sea or internal waters along the international boundary between Canada and the United States;

a) le Canada et les États-Unis ont un intérêt mutuel pour le maintien de la sécurité dans les zones non contestées de la mer ou des eaux internes longeant la frontière internationale entre le Canada et les États-Unis;

(b) integrated cross-border operations must

b) les opérations transfrontalières intégrées doivent :

(i) respect the sovereignty of Canada and the United States,

(i) respecter la souveraineté du Canada et des États-Unis,

(ii) be conducted in accordance with the rule of law, and

(ii) s'effectuer dans le respect de la primauté du droit,

(iii) be conducted as directed by a designated officer from the host country; and

(iii) s'effectuer selon les directives d'un agent désigné du pays hôte;

(c) in Canada, integrated cross-border operations must be conducted in a manner respecting the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms.

c) les opérations transfrontalières intégrées doivent, au Canada, s'effectuer dans le respect des droits et libertés garantis par la Charte canadienne des droits et libertés.

CENTRAL AUTHORITY FOR CANADA

AUTORITÉ CENTRALE DU CANADA

Designation

5. For the purposes of implementing the Agreement, the Central Authority for Canada is the Commissioner of the Royal Canadian Mounted Police or his or her delegate.

5. Pour la mise en œuvre de l'accord, l'autorité centrale du Canada est le commissaire de la Gendarmerie royale du Canada ou son délégué.

Désignation

Direction and management

6. The Central Authority for Canada has, in cooperation with the person designated as the Central Authority for the United States for the purposes of implementing the Agreement, responsibility for the direction and management of integrated cross-border operations.

6. L'autorité centrale du Canada assure la direction et la gestion des opérations transfrontalières intégrées, en collaboration avec la personne désignée comme autorité centrale des États-Unis pour la mise en œuvre de l'accord.

Direction et gestion

Appointment of officers from Canada

7. (1) The Central Authority for Canada may appoint as a cross-border maritime law enforcement officer an individual who is

7. (1) L'autorité centrale du Canada peut nommer, à titre d'agent chargé du contrôle transfrontalier maritime de l'application de la loi, la personne physique qui remplit l'une ou l'autre des conditions suivantes :

Nomination des agents du Canada

(a) a member of the Royal Canadian Mounted Police;

a) elle est membre de la Gendarmerie royale du Canada;

(b) a police officer appointed or employed under the law of a province; or

b) elle est agent de police nommé ou employé en vertu d'une loi provinciale;

(c) a pilot, co-pilot, observer or other member of the crew of an aircraft that is operated by the Royal Canadian Mounted Police or a police service established under the law of a province and that is used to provide aerial support in an integrated cross-border operation.

c) elle est pilote, copilote, observateur ou autre membre d'équipage d'un aéronef qui est exploité par la Gendarmerie royale du Canada ou par un service de police constitué en vertu d'une loi provinciale et qui est utilisé pour fournir des services de soutien aérien dans le cadre d'une opération transfrontalière intégrée.

Criterion for appointment

(2) An individual may be appointed under subsection (1) only if they have satisfactorily completed the required training, approved by the Central Authority for Canada, for appointment as a designated officer.

(2) La personne en cause ne peut être nommée que si elle a réussi la formation des agents désignés qui est agréée par l'autorité centrale du Canada.

Condition préalable

Appointment of officers from United States

8. (1) The Central Authority for Canada may appoint as a cross-border maritime law enforcement officer an individual who is

8. (1) L'autorité centrale du Canada peut nommer, à titre d'agent chargé du contrôle transfrontalier maritime de l'application de la loi, la personne physique qui remplit l'une ou l'autre des conditions suivantes :

Nomination des agents des États-Unis

(a) a commissioned, warrant or petty officer of the United States Coast Guard;

a) elle est officier commissionné, adjudant ou officier marinier de la garde côtière des États-Unis;

(b) a police officer or other law enforcement officer appointed or employed under the law of the United States or of a state of the United States; or

b) elle est agent de police ou de contrôle d'application de la loi et nommée ou employée en vertu des lois des États-Unis ou de l'un de ses États;

(c) a pilot, co-pilot, observer or other member of the crew of an aircraft that is operated by the United States Coast Guard or a police

service, or other law enforcement agency of the United States or of a state of the United States, and that is used to provide aerial support in an integrated cross-border operation.

c) elle est pilote, copilote, observateur ou autre membre d'équipage d'un aéronef qui est exploité par la garde côtière des États-Unis ou par un service de police ou un autre organisme de contrôle d'application de la loi des États-Unis ou de l'un de ses États et qui est utilisé pour fournir des services de soutien aérien dans le cadre d'une opération transfrontalière intégrée.

Criteria for appointment

(2) An individual may be appointed under subsection (1) only if

(2) La personne en cause ne peut être nommée que si elle remplit les conditions suivantes :

Conditions préalables

(a) they have been recommended for appointment by the person designated as the Central Authority for the United States for the application of the Agreement; and

a) sa nomination est recommandée par la personne désignée comme autorité centrale des États-Unis pour la mise en œuvre de l'accord;

(b) they have satisfactorily completed the required training, approved by the Central Authority for Canada, for appointment as a designated officer.

b) elle a réussi la formation des agents désignés qui est agréée par l'autorité centrale du Canada.

Suspension or revocation

9. The Central Authority for Canada may suspend or revoke the appointment of any designated officer.

9. L'autorité centrale du Canada peut suspendre ou révoquer la nomination de tout agent désigné.

Suspension et révocation

Certificates

10. (1) The Central Authority for Canada may issue a certificate to any designated officer stating that the person to whom it is issued is a designated officer for the purposes of this Act.

10. (1) L'autorité centrale du Canada peut délivrer à un agent désigné un certificat attestant que le titulaire a cette qualité pour l'application de la présente loi.

Certificats

Evidence of appointment or designation

(2) Any document purporting to be a certificate referred to in subsection (1) is evidence in all courts and in all proceedings of the facts stated in it.

(2) Tout certificat visé au paragraphe (1) et présenté comme tel est admissible en preuve et fait foi de son contenu devant tous les tribunaux et dans toutes les procédures.

Valeur probante

Recommendation for appointment

11. The Central Authority for Canada may recommend, to the person designated as the Central Authority for the United States for the purposes of implementing the Agreement, that an individual described in paragraph 7(1)(a), (b) or (c) be appointed as a cross-border maritime law enforcement officer in the United States.

11. L'autorité centrale du Canada peut recommander, à la personne désignée comme autorité centrale des États-Unis pour la mise en œuvre de l'accord, de nommer, à titre d'agent chargé du contrôle transfrontalier maritime de l'application de la loi aux États-Unis, la personne physique qui remplit l'une ou l'autre des conditions prévues aux alinéas 7(1)a) à c).

Recommandation d'une nomination

POWERS OF DESIGNATED OFFICERS

POUVOIRS DES AGENTS DÉSIGNÉS

Powers — designated officer

12. Every designated officer has the same power to enforce an Act of Parliament as a member of the Royal Canadian Mounted Police when

12. Tout agent désigné est investi, pour le contrôle d'application des lois fédérales, des pouvoirs d'un membre de la Gendarmerie royale du Canada lorsque, selon le cas :

Pouvoirs d'un agent désigné

(a) participating in an integrated cross-border operation; or

a) il participe à une opération transfrontalière intégrée;

(b) engaging in an activity incidental to such an operation, including travel for the purpose of participating in the operation and appearances in court arising from the operation.

b) il accomplit une activité accessoire à une telle opération, notamment il se déplace en vue de participer à l'opération ou comparaît devant un tribunal en lien avec l'opération.

DETENTION OF PERSONS

PERSONNES DÉTENUES

Persons taken into custody

13. (1) The laws of Canada apply to any person detained or taken into custody within Canada in the course of an integrated cross-border operation.

13. (1) Le droit canadien s'applique à la personne détenue ou mise sous garde au Canada dans le cadre d'une opération transfrontalière intégrée.

Traitement

Removal from Canada

(2) No person referred to in subsection (1) may be removed from Canada, except in accordance with the laws of Canada.

(2) La personne ne peut être amenée hors du Canada qu'en conformité avec le droit canadien.

Déplacement hors du Canada

SEIZURE

SAISIES

Vessel, etc., seized in Canada

14. (1) The laws of Canada apply to any vessel or other thing seized within Canada in the course of an integrated cross-border operation.

14. (1) Le droit canadien s'applique aux bateaux et autres objets saisis au Canada dans le cadre d'une opération transfrontalière intégrée.

Bateaux et objets saisis au Canada

Removal from Canada

(2) Subject to subsection (3), no vessel or other thing referred to in subsection (1) may be removed from Canada, except in accordance with the laws of Canada.

(2) Sous réserve du paragraphe (3), les bateaux et autres objets saisis ne peuvent être transportés hors du Canada qu'en conformité avec le droit canadien.

Transport hors du Canada

Exception

(3) A vessel or other thing referred to in subsection (1) may be removed from Canada in situations of operational or geographical necessity, including situations in which

(3) Ils peuvent être transportés hors du Canada dans des cas de nécessité opérationnelle ou géographique, notamment dans l'un ou l'autre des cas suivants :

Exception

(a) before delivering the vessel or thing to the place where it is to be delivered in Canada, designated officers are required to participate in a continuing integrated cross-border operation or respond to an emergency in the waters of the United States;

a) avant de livrer le bateau ou l'objet saisi à l'endroit prévu de sa remise au Canada, les agents désignés doivent participer à une opération transfrontalière intégrée en cours, ou intervenir dans une situation d'urgence dans les eaux des États-Unis;

(b) due to poor weather or mechanical difficulties with a vessel operated by designated officers, it is necessary to transit through the waters of the United States in order to reach the nearest port; or

b) en raison de mauvaises conditions météorologiques ou de problèmes mécaniques touchant le bateau piloté par des agents désignés, il est nécessaire de passer par les eaux des États-Unis pour se rendre au port le plus proche;

(c) the navigable shipping channels between the location in Canada where the vessel or thing was seized and the place where the vessel or thing is to be delivered in Canada pass through the waters of the United States.

c) les canaux de navigation entre l'endroit où le bateau ou l'objet a été saisi et l'endroit prévu de sa remise au Canada passent par les eaux des États-Unis.

Vessel, etc., seized in United States

15. A vessel or other thing seized in the United States in the course of an integrated cross-border operation remains in the custody

15. Les bateaux et autres objets saisis aux États-Unis dans le cadre d'une opération transfrontalière intégrée demeurent sous la garde et

Bateaux et objets saisis aux États-Unis

and control of the American designated officer if it is brought into Canada in situations of operational or geographical necessity, including situations in which

(a) before delivering the vessel or thing to the place where it is to be delivered in the United States, designated officers are required to participate in a continuing integrated cross-border operation or respond to an emergency in the waters of Canada;

(b) due to poor weather or mechanical difficulties with a vessel operated by designated officers, it is necessary to transit through the waters of Canada in order to reach the nearest port; or

(c) the navigable shipping channels between the location in the United States where the vessel or thing was seized and the place where the vessel or thing is to be delivered in the United States pass through the waters of Canada.

le contrôle de l'agent désigné américain s'ils sont transportés au Canada dans des cas de nécessité opérationnelle ou géographique, notamment dans l'un ou l'autre des cas suivants :

a) avant de livrer le bateau ou l'objet saisi à l'endroit prévu de sa remise aux États-Unis, les agents désignés doivent participer à une opération transfrontalière intégrée en cours, ou intervenir dans une situation d'urgence dans les eaux du Canada;

b) en raison de mauvaises conditions météorologiques ou de problèmes mécaniques touchant le bateau piloté par des agents désignés, il est nécessaire de passer par les eaux du Canada pour se rendre au port le plus proche;

c) les canaux de navigation entre l'endroit où le bateau ou l'objet a été saisi et l'endroit prévu de sa remise aux États-Unis passent par les eaux du Canada.

Non-application of certain laws

16. No Act of Parliament relating to the import or export of goods applies to the import or export of a vessel or other thing by a designated officer in the circumstances described in subsection 14(3) or section 15.

16. Les lois fédérales régissant l'importation ou l'exportation de biens ne s'appliquent pas à l'importation ni à l'exportation, par des agents désignés, de bateaux ou d'autres objets dans les cas visés au paragraphe 14(3) ou à l'article 15.

Non-application de certaines lois

R.S., c. R-10

Amendments to the Royal Canadian Mounted Police Act

Modification de la Loi sur la Gendarmerie Royale du Canada

L.R., ch. R-10

369. The Royal Canadian Mounted Police Act is amended by adding the following after section 45.47:

369. La Loi sur la Gendarmerie royale du Canada est modifiée par adjonction, après l'article 45.47, de ce qui suit :

INTEGRATED CROSS-BORDER LAW ENFORCEMENT OPERATIONS ACT

LOI SUR LES OPÉRATIONS TRANSFRONTALIÈRES INTÉGRÉES DE CONTRÔLE D'APPLICATION DE LA LOI

Definitions

45.48 The following definitions apply in sections 45.49 to 45.51.

45.48 Les définitions qui suivent s'appliquent aux articles 45.49 à 45.51.

Définitions

"Central Authority" « autorité centrale »

"Central Authority" means the Central Authority for Canada, as designated under section 5 of the *Integrated Cross-border Law Enforcement Operations Act*.

« agent désigné » S'entend au sens de l'article 2 de la *Loi sur les opérations transfrontalières intégrées de contrôle d'application de la loi*.

« agent désigné » "designated officer"

"designated officer" « agent désigné »

"designated officer" has the same meaning as in section 2 of the *Integrated Cross-border Law Enforcement Operations Act*.

« autorité centrale » L'autorité centrale du Canada, désignée par l'article 5 de la *Loi sur les opérations transfrontalières intégrées de contrôle d'application de la loi*.

« autorité centrale » "Central Authority"

<p>“integrated cross-border operation” « opération transfrontalière intégrée »</p>	<p>“integrated cross-border operation” has the same meaning as in section 2 of the <i>Integrated Cross-border Law Enforcement Operations Act</i>.</p>	<p>« opération transfrontalière intégrée » S’entend au sens de l’article 2 de la <i>Loi sur les opérations transfrontalières intégrées de contrôle d’application de la loi</i>.</p>	<p>« opération transfrontalière intégrée » “integrated cross-border operation”</p>
<p>Complaints by public</p>	<p>45.49 (1) Any member of the public who has a complaint concerning the conduct of a designated officer in the performance of any duty or function in the course of an integrated cross-border operation may, whether or not that member of the public is affected by the subject matter of the complaint, make a complaint to</p> <p>(a) the Commission;</p> <p>(b) any member, as defined in subsection 2(1) or other person appointed or employed under the authority of this Act; or</p> <p>(c) the provincial authority in the province in which the subject matter of the complaint arose that is responsible for the receipt and investigation of complaints by the public against police.</p>	<p>45.49 (1) Tout membre du public qui a un sujet de plainte concernant la conduite d’un agent désigné, dans l’exercice de ses attributions dans le cadre d’une opération transfrontalière intégrée, peut, qu’il en ait ou non subi un préjudice, déposer une plainte auprès :</p> <p>a) de la Commission;</p> <p>b) d’un membre, au sens du paragraphe 2(1), ou de toute autre personne nommée ou employée sous le régime de la présente loi;</p> <p>c) de l’autorité provinciale dans la province d’origine du sujet de la plainte, qui est compétente pour recevoir des plaintes du public contre la police et faire enquête.</p>	<p>Plainte</p>
<p>Acknowledgment of complaint</p>	<p>(2) Every complaint under subsection (1) shall be acknowledged in writing.</p>	<p>(2) Il est accusé réception par écrit de la plainte.</p>	<p>Accusé de réception</p>
<p>Notification — Central Authority and Commission</p>	<p>(3) The Central Authority shall be notified of every complaint made under subsection (1), and the Commission shall be notified of every complaint made under paragraph (1)(b) or (c).</p>	<p>(3) La plainte est portée à l’attention de l’autorité centrale et, si elle est déposée en vertu de l’alinéa (1)b) ou c), à celle de la Commission.</p>	<p>Avis à l’autorité centrale et à la Commission</p>
<p>Notification — designated officer</p>	<p>(4) On being notified of the complaint, the Central Authority shall notify, in writing, the designated officer whose conduct is the subject matter of the complaint of its substance unless, in the Central Authority’s opinion, to do so might adversely affect or hinder any investigation that is being or may be carried out in respect of the complaint.</p>	<p>(4) Dès qu’elle est avisée du dépôt d’une plainte, l’autorité centrale avise par écrit l’agent désigné dont la conduite fait l’objet de la plainte de la teneur de celle-ci, pour autant qu’elle soit d’avis qu’une telle mesure ne risque pas de nuire à la tenue d’une enquête sur la question.</p>	<p>Avis à l’agent désigné</p>
<p>Application of certain sections</p>	<p>45.5 (1) Sections 45.36 to 45.47 apply in respect of a complaint made under subsection 45.49(1), with the following modifications:</p> <p>(a) a reference to the Commissioner is a reference to the Central Authority;</p> <p>(b) a reference to a member or other person whose conduct is the subject matter of the complaint is a reference to a designated officer whose conduct is the subject matter of the complaint;</p>	<p>45.5 (1) Les articles 45.36 à 45.47 s’appliquent aux plaintes visées au paragraphe 45.49(1), avec les adaptations suivantes :</p> <p>a) la mention du commissaire vaut mention de l’autorité centrale;</p> <p>b) la mention du membre ou de l’autre personne dont la conduite fait l’objet de la plainte vaut mention de l’agent désigné dont la conduite fait l’objet de la plainte;</p>	<p>Application de certaines dispositions</p>

	(c) a reference to subsection 45.35(1) is a reference to subsection 45.49(1);	c) la mention du paragraphe 45.35(1) vaut mention du paragraphe 45.49(1);	
	(d) a reference, other than in paragraph 45.41(2)(b), to the Force is a reference to the person or persons designated for that purpose by the Central Authority; and	d) sauf à l'alinéa 45.41(2)b), la mention de la Gendarmerie vaut mention de la ou des personnes nommées à cet effet par l'autorité centrale;	
	(e) the reference in paragraph 45.41(2)(b) to the Force is a reference to the Central Authority.	e) à l'alinéa 45.41(2)b), la mention de la Gendarmerie vaut mention de l'autorité centrale.	
Joint investigation	(2) An investigation under paragraph 45.42(3)(c) may be carried out jointly with a body designated by the Commission Chairman.	(2) L'enquête visée à l'alinéa 45.42(3)c) peut être menée conjointement par le président de la Commission et l'organisme qu'il désigne.	Enquête conjointe
Reports	(3) Reports referred to in section 45.4 and subsection 45.46(3) shall also be sent to the minister responsible for policing in the province where the conduct that is the subject matter of the complaint took place.	(3) Les rapports visés à l'article 45.4 ou au paragraphe 45.46(3) sont aussi transmis au ministre chargé de l'administration des forces de police de la province où est survenue la conduite de l'agent désigné faisant l'objet de la plainte.	Rapports
Annual report	45.51 The Commission Chairman shall send the report referred to in section 45.34 to the minister responsible for policing in each province where integrated cross-border operations took place during that year.	45.51 -Le président de la Commission transmet le rapport visé à l'article 45.34 au ministre chargé de l'administration des forces de police de chacune des provinces où des opérations transfrontalières intégrées ont eu lieu au cours de l'exercice en question.	Rapport annuel
	370. The Act is amended by adding the following after section 50:	370. La même loi est modifiée par adjonction, après l'article 50, de ce qui suit :	
Exception	50.1 Paragraph 50(a) does not apply to a designated officer as defined in section 45.48 who was appointed under subsection 8(1) of the <i>Integrated Cross-border Law Enforcement Operations Act</i> .	50.1 L'alinéa 50a) ne s'applique pas à l'agent désigné, au sens de l'article 45.48, qui a été nommé en vertu du paragraphe 8(1) de la <i>Loi sur les opérations transfrontalières intégrées de contrôle d'application de la loi</i> .	Exception

Consequential Amendments

Modifications corrélatives

R.S., c. C-46

Criminal Code

Code criminel

L.R., ch. C-46

371. The definition "peace officer" in section 2 of the *Criminal Code* is amended by adding the following after paragraph (c):

371. La définition de « agent de la paix », à l'article 2 du *Code criminel*, est modifiée par adjonction, après l'alinéa c), de ce qui suit :

(c.1) a designated officer as defined in section 2 of the *Integrated Cross-border Law Enforcement Operations Act*, when

c.1) tout agent désigné, au sens de l'article 2 de la *Loi sur les opérations transfrontalières intégrées de contrôle d'application de la loi*, lorsque, selon le cas :

(i) participating in an integrated cross-border operation, as defined in section 2 of that Act, or

(i) il participe à une opération transfrontalière intégrée, au sens de l'article 2 de cette loi,

(ii) engaging in an activity incidental to such an operation, including travel for the purpose of participating in the operation and appearances in court arising from the operation;

(ii) il accomplit une activité accessoire à une telle opération, notamment il se déplace en vue de participer à l'opération ou comparaît devant un tribunal en lien avec l'opération;

R.S., c. 1 (2nd Supp.)

Customs Act

Loi sur les douanes

L.R., ch. 1 (2^e suppl.)

2001, c. 25, s. 10(2)

372. Paragraphs 11(6)(a) and (b) of the Customs Act are replaced by the following:

372. Les alinéas 11(6)a) et b) de la Loi sur les douanes sont remplacés par ce qui suit :

2001, ch. 25, par. 10(2)

(a) holds an authorization issued by the Minister under subsection 11.1(1) to present himself or herself in a prescribed alternative manner and who presents himself or herself in the manner authorized for that person; or

a) est autorisée par le ministre, en vertu du paragraphe 11.1(1), à se présenter selon un mode substitutif réglementaire et se présente selon le mode autorisé;

(b) is a member of a prescribed class of persons authorized by regulations made under subsection 11.1(3) to present himself or herself in a prescribed alternative manner and who presents himself or herself in the manner authorized for that class.

b) est membre d'une catégorie de personnes réglementaire qui est autorisée, par un règlement pris en vertu du paragraphe 11.1(3), à se présenter selon un mode substitutif réglementaire et se présente selon le mode autorisé.

2001, c. 25, s. 11

373. Paragraph 11.1(3)(a) of the Act is replaced by the following:

373. L'alinéa 11.1(3)a) de la même loi est remplacé par ce qui suit :

2001, ch. 25, art. 11

(a) prescribing classes of persons who are, and classes of persons who may be, authorized to present themselves in alternative manners;

a) désignant les catégories de personnes qui sont autorisées à se présenter selon un mode substitutif et les catégories de personnes qui peuvent l'être;

Coming into Force

Entrée en vigueur

Order in council

374. This Division comes into force on a day to be fixed by order of the Governor in Council.

374. La présente section entre en vigueur à la date fixée par décret.

Décret

**Pages 123 to / à 154
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(a)

**of the Access to Information
de la Loi sur l'accès à l'information**

BACKGROUND/ANALYSIS

Field Code Changed

BACKGROUND

1. Both Canada and the United States (U.S.) have a mutual interest in the security of the shared border and are committed to increasing respective law enforcement capacities to deter, target, investigate, interdict and prosecute people or groups that pose a public safety or security threat to either or both nations.
2. Notwithstanding investments since September 11, 2001, security gaps and vulnerabilities continue to be identified by Canadian and U.S. law enforcement authorities along the 8,891 km-long international boundary between both countries. This is due, in part, to the fact that criminal organizations are not restricted by jurisdictional boundaries and that they seek to exploit these seams at international borders for illicit purposes.
3. Recent threat assessments conducted by Canadian and U.S. law enforcement agencies, such as the 2011 Canada – United States Integrated Border Enforcement Team Threat Assessment and the United States – Canada Joint Border Threat and Risk Assessment, identify organized crime as the most prevalent threat encountered at the shared border. This includes significant levels of contraband trafficking, ranging from illicit drugs and tobacco to firearms and human smuggling.
4. Law enforcement agencies working at and near the Canada – U.S. border are increasingly confronted with responding to and investigating, criminal activity that extends beyond their respective national boundaries. Cross-boundary investigations are hindered by the fact that law enforcement officers do not retain peace officer status outside of their respective jurisdictions. Organized crime groups are aware of these jurisdictional limitations and use them to their advantage in order to evade arrest and subsequent prosecution when involved in cross-border criminality.
5. The concept of integrated cross-border law enforcement operations is a marked departure from the existing and traditional cooperative partnership approach to conducting border law enforcement activities. Guided by agreed-upon principles (i.e., respect for sovereignty and domestic rule of law, reciprocity, joint governance, oversight and accountability), it will authorize specially trained and designated Canadian and U.S. law enforcement officers, working in integrated teams, to enforce the law on both sides of the international boundary line. Working together, these integrated teams, which could include other domestic law enforcement agencies in addition to the Royal Canadian Mounted Police (RCMP) will be able to transit back and forth across the border to deal with cross-border criminality in various operational environments (i.e., marine and land modes). All operations will be conducted under the direction and control of law enforcement officers of the “host” country, will be subject to the domestic laws of the “host country” and will be assisted by the law enforcement officers of the “visiting” country.
6. Development of a reliable, secure and legal radio interoperability system to facilitate communication between Canadian and U.S. border law enforcement agencies figures prominently as part of the trend toward enhanced integration of border law enforcement resources. An interoperable system will provide front-line officers with an important communications tool that will increase both public and officer safety by facilitating the effective coordination and execution of integrated operations. This is a critical supporting component that will help both countries fully realize the potential of integrated cross-border law enforcement operations, including Shiprider and Next Generation.

Shiprider

7. To test the integrated operations concept, Canada and the U.S. authorized two pilot projects between the RCMP and the United States Coast Guard in 2005 at Windsor/Detroit, and in 2007 at Vancouver/Blaine and Cornwall/Massena. These pilot projects were undertaken to help assess the desirability and viability of conducting cross-border maritime law enforcement operations. While the Government permitted the

pilot projects to proceed on a "risk-managed" basis, the temporary arrangements that were put in place to address some of the legal issues were not suited to regularly deployed integrated cross-border maritime law enforcement operations.

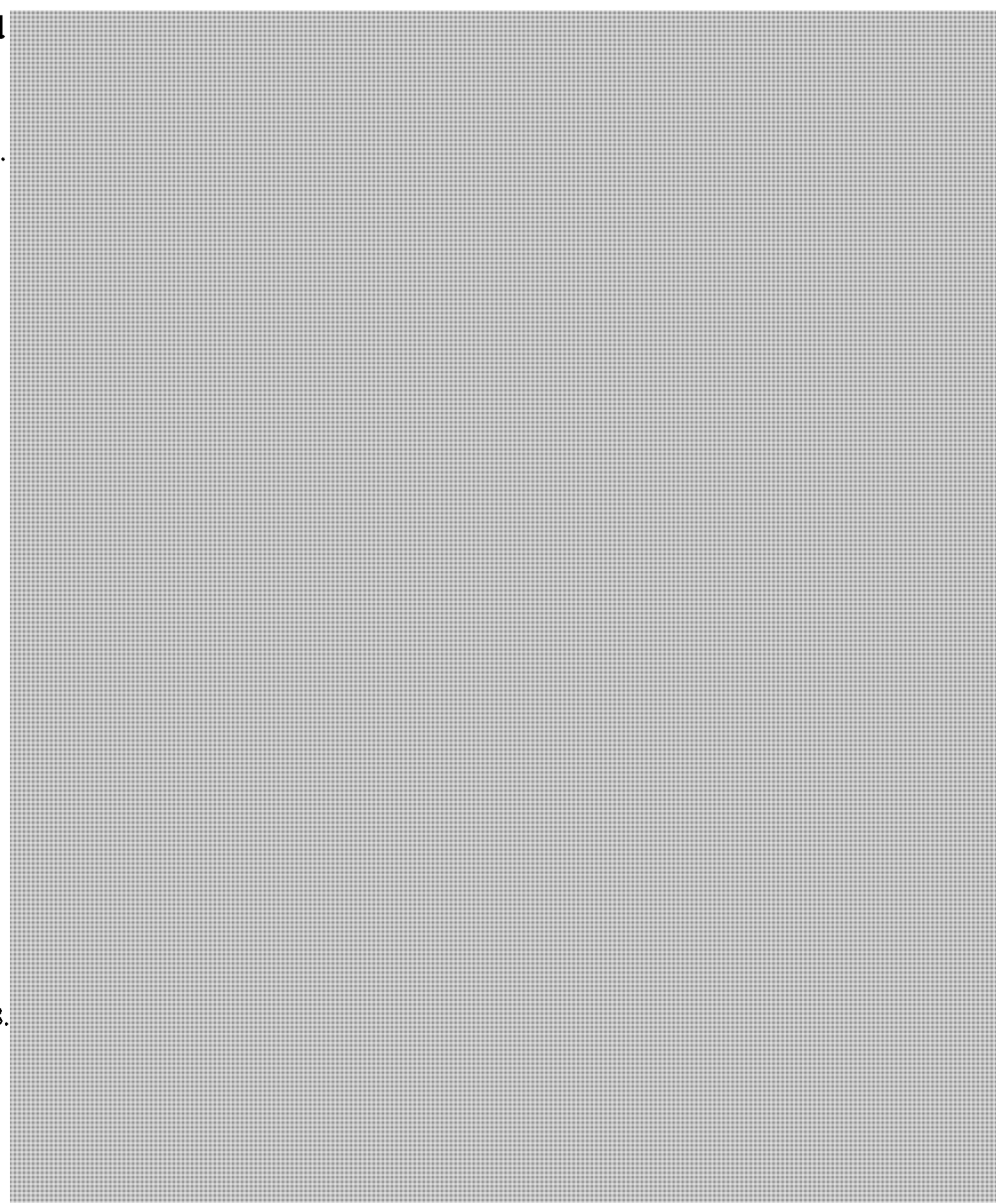
8. Joint evaluations of the Shiprider pilot projects confirmed that integrated cross-border maritime law enforcement operations created a force-multiplier and enhanced the operational flexibility of Canadian and U.S. law enforcement by enabling seamless, continuous law enforcement activities across the border. This approach made better use of existing resources and provided an enhanced security posture along the marine border by facilitating more effective targeting, investigation and interdiction of criminals operating on shared waters. Both evaluations indicated that significant investments will be required to deploy full-time Shiprider operations.
9. In short, the Shiprider pilot projects had a measureable impact on cross-border criminal activity and they removed the border as an impediment to effective border policing. For example, during the 2007 Cornwall/Akwesasne pilot project, RCMP and United States Coast Guard officers participated in more than 187 boardings and logged in excess of 1200 patrol hours. These operations were directly tied to several interdictions, including the seizure of 215 pounds of marijuana, worth U.S. \$330,000, by the Akwesasne Mohawk Police Service, and the seizure of 1,420,000 contraband cigarettes, \$2,035 in Canadian currency, and vessels and vehicles with a total approximate value of \$75,000. In thirty-nine separate incidents, these teams contributed to 41 arrests, with 6 arrests made directly by the integrated marine teams. Given their ability to conduct law enforcement on both sides of the St. Lawrence, the integrated marine teams were also directly involved in the recovery of an abducted child in the Cornwall area. On the west coast, the RCMP and United States Coast Guard officers issued 27 safety violations, as well as the detention of two individuals who were remanded to the custody of the appropriate United States County Sheriff's Office for suspicion of Driving Under the Influence, and one individual cited for significant illegal commercial fishing violations.
10. Based on the results of the pilot projects, the Government approved, in November 2007, a mandate for Foreign Affairs and International Trade Canada, Public Safety Canada and Justice Canada to negotiate a Framework Agreement with the U.S. to govern the deployment of regular Shiprider operations. Negotiations concluded during early Spring 2009 and the Shiprider Framework Agreement was signed by the Minister of Public Safety and the United States Secretary for Homeland Security in May 2009.
11. The U.S. has since drafted internal requirements to bring the Framework Agreement into-force. In Canada, enabling legislation has been introduced to Parliament on two occasions, but in both instances, the process ceased due to parliamentary prorogation (2009) and dissolution (2011). The legislation was reintroduced to Parliament as part of the *Budget Implementation Act* on April 27, 2012, and is expected to be passed by June 2012 in order to enable the deployment of regularized Shiprider operations in Summer 2012.
- s.15(1) - Int¹²
s.21(1)(a)
s.21(1)(c)
s.21(1)(d) 12. Regularized Shiprider operations will be supported by specially trained and cross-designated Canadian and U.S. law enforcement officers working together on crewed marine vessels to enforce the law on both sides of the border on shared waters. Shiprider operations will be deployed based on joint threat and risk assessments in four regions: 1) Pacific Region 2) Detroit – Windsor [REDACTED] However, should future joint threat and risk assessments dictate higher priority locations, Shiprider operations may be redeployed to mitigate these threats.
13. Specific enforcement activities consist of detecting, monitoring and, potentially, boarding vessels in either Canadian or U.S. waters. In Canadian waters, joint Shiprider operations are subject to Canadian laws, policies and procedures, and all operations are undertaken under the direction and control of the RCMP. RCMP vessels designated as Shiprider vessels will have at least one officer of the United States Coast Guard on board will be authorized to enter U.S. waters to enforce U.S. laws under the direction and control of the United States Coast Guard officer. Similarly, United States Coast Guard vessels in Shiprider operations will have a member of the RCMP on board and will be able to enter

Canadian waters to enforce Canadian laws under the direction and control of the RCMP officer.

Next Generation

- 14. The Next Generation concept builds upon existing border law enforcement programs, including Integrated Border Enforcement Teams (IBETs) and Border Enforcement Security Task Forces (BEST), while leveraging the cross-border policing model first introduced by Shiprider. By leveraging these proven programs, the U.S. and Canada will bring together core partners on a dedicated, full-time basis to work together in joint teams to secure the border between ports of entry as well as undertake joint inland investigations.
- 15. Similar to Shiprider, all Next Generation operations will be conducted under the direction and control of the host country and all law enforcement activities will be carried out in accordance with host country laws. All teams will be comprised of specially trained and designated law enforcement officers working together to maximize opportunities for successful law enforcement interventions.

s.15(1) - Int'l
s.21(1)(a)
s.21(1)(c) 17.



18.

Radio Interoperability

19. The inability to effectively communicate in real time across-the border has been a long-standing impediment to both Canadian and U.S. law enforcement personnel. The establishment of an interoperable radio communications system will permit law enforcement agencies to coordinate effective binational investigations and timely responses to border incidents, while improving both officer and public safety.

**s.15(1) - Int'l
s.16(2)(c)**

20. As Canada and the U.S. move to expand integrated law enforcement efforts, the operational ability to communicate across the border becomes even more important. Currently, Canadian and U.S. law enforcement officers are not able to communicate by radio unless they have traded radios in advance of a planned joint operation. When multiple agencies are involved, participating officers must travel with multiple radios.

**s.21(1)(a)
s.21(1)(c)**

21. [Redacted]

22. The proposed solution is a cost effective solution that will use existing corporate Internet Protocol networks and RCMP radio infrastructure, requiring only a small engineering team to implement and maintain.

23. This proposal is an innovative and cost effective approach to solving radio interoperability that will enhance border security in both Canada and the U.S., in a fiscally responsible fashion. The solution will provide a reliable, secure and legal means to facilitate communication between Canadian and U.S. law enforcement.

CONSIDERATIONS AND IMPACTS

24. The implementation of integrated cross-border law enforcement operations is a key commitment of the joint Canada – United States *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness*, announced by the Prime Minister and President in February 2011. The regularization of Shiprider, the deployment of a Next Generation pilot project and the establishment of a permanent, reliable radio interoperability solution are initiatives of the integrated cross-border law enforcement pillar of the *Beyond the Border Action Plan* announced in December 2011 and are early, concrete deliverables as part of its implementation.

25. These initiatives are also directly linked to the 2011 *Speech from the Throne*, which announced that Canada would “strengthen our collaboration to streamline and secure the border...ensuring that people and goods can flow freely and safely between our two countries” and the 2012 Budget, which stated that Canada would launch “the Action Plan on Perimeter Security and Economic Competitiveness...These agreements create a new, modern border for a new century. The Action Plan on Perimeter Security and Economic Competitiveness provides a practical road map for speeding up legitimate trade and travel across the Canada-U.S. border, while enhancing security.”

26. Legislation required to ratify the Shiprider Framework Agreement and to implement regularized Shiprider operations in Canada was included in the *Budget Implementation Act*, expected to be enacted in Spring 2012.

27. Integrated cross-border law enforcement operations will have an impact on several federal departments and agencies, particularly the RCMP, where the Commissioner will be identified as the Central Authority to manage integrated cross-border law enforcement operations. Operations will also have an impact on the Canada Border Services Agency (CBSA) (i.e., participation in Next Generation [Redacted] cross-border transit

reporting requirements under domestic customs and immigration laws) and the Public Prosecution Service of Canada (i.e., prosecution of offences under federal statutes other than the *Criminal Code*, of certain offences under the *Criminal Code*, and an ongoing law enforcement advisory function on prosecution-related issues).

28. While provincial Attorneys General have primary responsibility for the prosecution of *Criminal Code* offences, it is not anticipated that prosecutions arising out of integrated cross-border law enforcement operations will have a significant impact on provincial prosecutions (i.e., caseloads). Rather, it is expected that the majority of the prosecutions arising in the context of such operations will fall to the Attorney General of Canada either because the offences most likely to be investigated fall under federal legislation other than the *Criminal Code* (e.g., the *Controlled Drugs and Substances Act*, the *Customs Act*, the *Immigration and Refugee Protection Act*, the *Excise Act*) or because the *Criminal Code* expressly provides for shared jurisdiction with respect to these offences (e.g., importing and exporting firearms, "terrorist activity", "criminal organization offences").

29.



s.13(1)(a)
s.15(1) - Int'l
s.21(1)(a)
s.21(1)(c)

30.

31. Integrated cross-border law enforcement operations could lead to public questions about the perceived erosion of Canadian sovereignty. The risks could be mitigated through the articulation of guiding principles and key elements that will be required components of any integrated operation. This will include a requirement that all law enforcement activities undertaken in Canada will be in accordance with Canadian law and policy, and all integrated cross-border law enforcement operations taking place within Canadian territory will be carried out under the direction and control of a Canadian law enforcement officer and be subject to domestic oversight provisions.

32. In accordance with the Cabinet Directive on Environmental Assessment of Policies, Plans and Program Proposals, a Strategic Environmental Assessment preliminary scan was conducted and concluded that significant environmental impacts are not likely.

33. In accordance with the Cabinet Directive on ensuring gender equality in the development of Government policy and programs, a preliminary Gender Based Analysis

conducted and concluded that significant gender considerations are not expected to be for integrated cross-border law enforcement operations or the implementation of a radio interoperability solution.

OPTIONS

s.69(1)(a)

34. **OPTION 1 [REDACTED] – Partial implementation of *Beyond the Border* Action Plan commitments.**

- Shiprider – [REDACTED]
- Next Generation – [REDACTED]
- Radio Interoperability – this option will provide for creation of binational radio interoperability system between Canadian and U.S. border enforcement personnel and will permit law enforcement agencies to coordinate effective binational investigations and timely responses to border incidents, while improving both officer and public safety.

s.15(1) - Int'l

s.21(1)(a)

s.21(1)(c)

s.21(1)(d)

OPTION 2 – Partial Implementation of *Beyond the Border* Action Plan commitments on a reduced costing basis as per the Central Agency funding cap.

- Shiprider - [REDACTED]
- Next Generation – no program change from recommended option.
- Radio Interoperability – no program change from recommended option.

OPTION 3 – Full implementation of *Beyond the Border* Action Plan commitments.

- Shiprider – no program change from recommended option.
- Next Generation - [REDACTED]
- Radio Interoperability – no program change from recommended option.

DUE DILIGENCE

35. The Canada –U.S. Integrated Border Enforcement Team program, comprised of the RCMP, CBSA, United States Coast Guard, United States Customs and Border Protection and United States Immigration and Customs Enforcement identified in its annual report, *Canada – United States IBET Threat Assessment 2011* that organized crime groups and criminal entrepreneurs were the predominant threats encountered between the ports of entry. Crime groups and criminal entrepreneurs typically planned and/or carried out smuggling of people and illegal goods including drugs, currency, firearms, vehicles, and contraband tobacco. There are a reported 113 crime groups and 87 criminal entrepreneurs currently exploiting the border and many of these groups are established in large cities close to the border.

36. The Canada Border Services Agency, the RCMP, and United States Customs and Border Protection, in partnership with other border law enforcement agencies, issued a report, *United States – Canada Joint Threat and Risk Assessment* in July 2010, which identified criminal enterprises and illegal migration as two key threats encountered by law enforcement at the shared border. The report noted that transnational criminals continued to engage in the movement of drugs, firearms, tobacco, intellectual property, currency, and human smuggling and trafficking across the border in both directions.

37. The Central Authority for Canada who has the authority to appoint designated officers for Shiprider and Next Generation operations will manage day-to-day operations in Canada and will have the power to suspend/revoke designations. Specific training in Canadian law will also be required for all designated officers. There will public oversight of the conduct of all designated officers operating in Canada as part of Shiprider operations.

38. Canada will formally evaluate the overall effectiveness of the Shiprider operations in partnership with the U.S.as per agreed upon timelines contained in the Framework Agreements (i.e., after five years). Review of the day-to-day effectiveness of regularized

Shiprider operations and the Next Generation pilot project will be ongoing. Performance measurements will be developed to assess the extent to which integrated operations have achieved operational goals to detect, deter and disrupt criminal activity in respective operating environments, including statistical data on arrests, seizures and prosecutions, implementation of an effective binational communications system.

39. The radio interoperability system will be measured via technical means such as system availability and user input and surveys. The number of integrated cross-border operations will be expected to increase as investigators can more effectively respond to tactical and planned situations, and the number of between the ports and inland interdictions are expected to increase as communication is made more effective and helps facilitate better bilateral coordination of immediate responses to threats.

STAKEHOLDER PERSPECTIVES/ENGAGEMENT

40. In August 2011, the Beyond the Border Working Group released its summary of public consultations entitled, "*Perimeter Security and Economic Competitiveness: a Report on Consultations on Perimeter Security and Economic Competitiveness between Canada and the United States*". Many submissions from individual Canadians expressed concern about cross-border law enforcement and were specifically focused on information sharing, loss of national sovereignty, the protection of civil liberties and redress.
41. Other stakeholders, such as the Canadian Council of Chief Executives and the Customs and Immigration Union called for the expansion of bilateral law enforcement partnerships. The Federation of Canadian Municipalities, some border communities/provinces, such as Saskatchewan and Ontario, recommended a deeper level of engagement with municipal police forces as part of the development of joint enforcement programs. The Assembly of First Nations recommended that First Nations in both countries be included in cross-border law enforcement activities. The Canadian Civil Liberties Association called for protocols that will prohibit the secondary use of information obtained in the context of a cross-border law enforcement operation. The Privacy Commissioner asked that privacy protection be applied to cross-border law enforcement activities.
42. Stakeholders were also consulted on the concept of integrated cross-border law enforcement during 2008 – 2009. In general, there was consensus that if integrated cross-border law enforcement operations are to become regularized, issues such as designation, authorities and control, training, implementation of necessary legislation, established protocols and procedures, accountability, agreed-upon enforcement standards and information sharing, will need to be effectively addressed in a framework agreement.
43. An effective communications and outreach strategy to inform the public about the establishment of regularized Shiprider operations and the deployment of a Next Generation pilot project will be employed to sensitize Canadians to the need for new border policing models and to address any concerns regarding sovereignty and privacy.

**Pages 162 to / à 163
are withheld pursuant to sections
sont retenues en vertu des articles**

15(1) - Int'l, 21(1)(a), 21(1)(b)

**of the Access to Information
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INTEGRATED CROSS-BORDER LAW ENFORCEMENT OPERATIONS

DESCRIPTION OF DELIVERABLE

- The *Beyond the Border Action Plan* committed Canada and the US to regularize 4 Shiprider teams (2 teams deployed in Summer 2012 and another 2 teams in 2015-16).
- The Action Plan also called for the establishments of 2 Next Generation pilot projects in Summer 2012 to assess the desirability and feasibility of moving the Shiprider concept of operations to land-based operations.

STATUS

- The regularization of Shiprider operations is on track and will be an early deliverable of the Action Plan. Regularized Shiprider operations will be deployed in Vancouver/Blaine and Windsor/Detroit beginning late October 2012. The RCMP and USCG are in the final stages

s.69(1)(g) re (a) of operational readiness

s.69(1)(g) re (c)

•

s.13(1)(c)

s.15(1) - Int'l

s.21(1)(b)

s.21(1)(c)

•

ANNOUNCEMENTS

- While a Ministerial announcement is pending, senior RCMP and USCG personnel are expected to convene Shiprider ground-breaking ceremonies in Vancouver/Blaine and Windsor/Detroit in late October 2012.

KEY MESSAGES / TALKING POINTS

- I am very pleased that we are, after 7 years of piloting, negotiating, and putting into place the necessary legislative instruments, ready to publically announce the regularization of Shiprider.
- The regularization of Shiprider represents a marked departure in how our countries conduct joint law enforcement operations at the border and hopefully our positive experiences and lessons learned from Shiprider will set the stage for further integrated efforts moving forward.

**Pages 165 to / à 217
are withheld pursuant to section
sont retenues en vertu de l'article**

69(1)(e)

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UNCLASSIFIED

DATE:

File No.: 391106
RDIMS No: 712147

MEMORANDUM FOR THE DIRECTOR GENERAL

NEXT GENERATION CONCEPT OF OPERATIONS

(For Information)

ISSUE

Completion of the Next Generation Concept of Operations (CONOPS).

BACKGROUND

Next Generation Principals (Richard Wex, Don Piragoff, Bruce Swartz and Alan Bersin) and other key officials met on May 8, 2012 to review and approve the Next Generation CONOPS, the associated governance model, and to discuss an outreach and awareness strategy for the deployment of the pilot projects [REDACTED].

While the CONOPS was approved in principle at the meeting by Principals, [REDACTED]

s.15(1) - Int'l
s.21(1)(b)
s.21(1)(c)

CURRENT STATUS

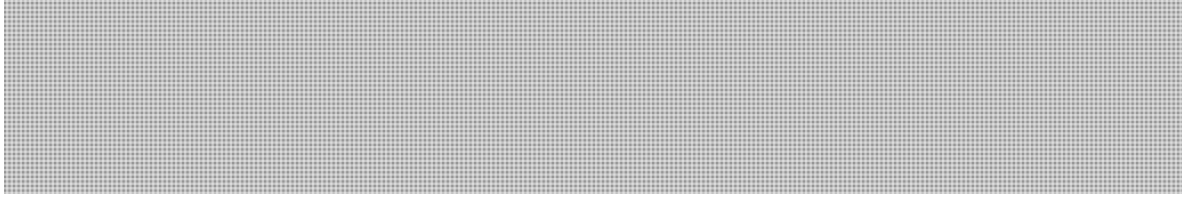
[REDACTED]

.../2

s.15(1) - Int'l

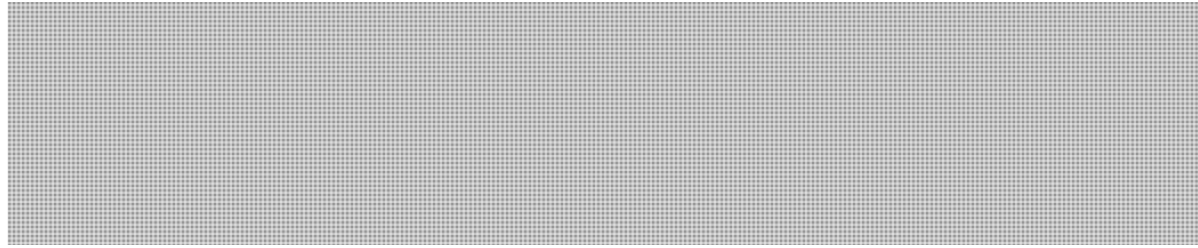
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s.21(1)(c)



NEXT STEPS

s.15(1) - Int'l
s.21(1)(b)
s.21(1)(c)



Stephen Bolton
Director, Border Law Enforcement Strategies

Enclosure: (1)

Prepared by: Marc Taschereau

Page 220

**is withheld pursuant to sections
est retenue en vertu des articles**

15(1) - Int'l, 21(1)(a), 21(1)(c), 23

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de la Loi sur l'accès à l'information**

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are withheld pursuant to sections
sont retenues en vertu des articles**

15(1) - Int'l, 21(1)(a), 21(1)(c)

**of the Access to Information
de la Loi sur l'accès à l'information**

PUBLIC SAFETY CANADA

Transition 2012: Hot Files

VOLUME 1: PUBLIC SAFETY POLICY AGENDA

Cross-Border Law Enforcement Operations Action Items

CONTEXT

Transnational crime is a threat to public safety and national security and has a direct impact on individual Canadians, businesses and the economy. It also has implications for relationships with our international partners, especially the United States (U.S.).

Threat assessments conducted by Canadian and U.S. law enforcement agencies, such as the 2011 Canada-U.S. Integrated Border Enforcement Team Threat Assessment, identify organized crime as the most prevalent threat between ports of entry. Criminal activities include significant levels of contraband trafficking, ranging from illicit drugs and tobacco, to firearms and human smuggling.

Police forces working at and near the Canada-U.S. border are increasingly faced with investigating criminal activity that extends beyond their respective national boundaries. This is especially true with respect to organized crime. Criminals, aware that Canadian and U.S. law enforcement personnel working at the shared border do not have authorities outside of their respective domestic jurisdictions, have taken advantage of this fact and have strategically organized criminal activities to avoid apprehension and prosecution.

Notwithstanding significant Canadian border security investments in recent years, more needs to be done to address identified gaps and vulnerabilities at the border (e.g., longest unmilitarized border in the world, remote geography, varied terrain). In response, the federal government has initiated the development of relevant, modern approaches to strengthen border security. This includes the formalization of cooperative policing models, such as Integrated Border Enforcement Teams (IBETs), and the pursuit of new innovative cross-border law enforcement models, such as Shiprider and the Next Generation of Cross-Border Law Enforcement (also known as "Next Generation").

This new approach maximizes resources and enables seamless law enforcement operations at and across the border, to better deter, identify and interdict mutual public safety and national security threats.

CURRENT SITUATION

IBETs

The IBET model was formally adopted by Canada and the U.S. with the implementation of the Smart Border Declaration and its supporting Action Plan (2001). IBETs are intelligence-led, multi-disciplinary law enforcement teams that are designed to enhance border integrity by emphasizing a harmonized border law enforcement approach to

combating transnational crime, including terrorism. They operate in 24 strategic locations across 15 regions and co-locate intelligence resources at four sites.

IBETs bring together core Canadian and U.S. federal partners to identify, investigate and interdict persons and organizations that threaten the national security of our respective countries or that are involved in organized criminal activity between the ports of entry.

While the IBET program promotes enhanced law enforcement cooperation and collaboration at the border, and even co-locates some intelligence resources from both countries, day-to-day law enforcement operations, such as surveillance and interdictions, are conducted by law enforcement agencies in their respective jurisdictions.

Shiprider

Unlike the traditional “coordinated and cooperative” approach employed by IBETs, new integrated cross-border law enforcement operations, such as Shiprider, involve specially trained and designated Canadian and U.S. law enforcement officers working together in dedicated teams. Shiprider officers are authorized to jointly crew marine vessels to enforce the law on both sides of the international boundary. Integrated teams, armed Canadian and U.S. law enforcement officers will be able to transit back and forth across the border to interdict cross-border criminality on shared waters.

Following Shiprider pilot projects conducted in 2005 and 2007, which effectively demonstrated that integrated cross-border law enforcement operations had a measureable impact on cross-border criminal activity, Canada and the U.S. launched negotiations to develop a Framework Agreement to govern regularized Shiprider operations in March 2008. Negotiations concluded in April 2009 and the Agreement was signed by the Minister of Public Safety and the U.S. Secretary of Homeland Security in May 2009.

Legislation to ratify the Framework Agreement was introduced to Parliament during Spring 2012 as part of the *Budget Implementation Act* (Bill C-38) and received Royal Assent on June 29, 2012. The Framework Agreement was ratified on September 27, 2012, [REDACTED]

s.15(1) - Int'l

The passage of the Shiprider legislation has established a solid legal foundation for the implementation of regularized Shiprider operations, which were formally announced by the Minister in White Rock, British Columbia on October 12, 2012.

Next Generation of Cross-Border Law Enforcement

In November 2010, the Canadian Ministers of Public Safety and Justice, and their U.S. counterparts, the Secretary of Homeland Security and Attorney General, all identified integrated cross-border law enforcement as a priority bilateral issue at the Canada-U.S. Cross-Border Crime Forum, and instructed their respective officials to work together to develop and deploy land-based operations (i.e., Next Generation) pilot projects based on the Shiprider model.

s.15(1) - Int'l Next Generation operations would leverage the cross-designation model first introduced by Shiprider and draw from the best practices of existing border law enforcement programs. However, unlike Shiprider, Next Generation operations would be land-based. While they would incorporate joint intelligence and uniformed presence capabilities similar to Shiprider, Next Generation operations

CONSIDERATIONS

The development of Shiprider is a natural progression in the evolution of Canada-U.S. border law enforcement partnership. Integrated cross-border law enforcement operations are an innovative approach that advances the Department's broader border integrity strategy, situates joint enforcement as a key Canada-U.S. border security priority and demonstrates to the U.S. that Canada remains a committed and reliable security partner.

The deployment of regularized Shiprider operations and Next Generation pilot operations are key initiatives under the Cross-Border Law Enforcement pillar of the Canada-U.S. *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Declaration* and its accompanying *Action Plan*. The *Action Plan* commits Canada and the U.S. to deploy regularized Shiprider operations and Next Generation pilot operations initiated in Summer 2012.

The *Action Plan* also committed both countries to implement a binational interoperable communications ("radio interoperability") solution to permit Canadian and U.S. law enforcement personnel to reliably and securely communicate with one another while engaged in border enforcement activities. Interoperability would be a key component in ensuring the viability and effectiveness of both Shiprider and IBET operations.

s.69(1)(g) re (a)
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Integrated border law enforcement operations raise

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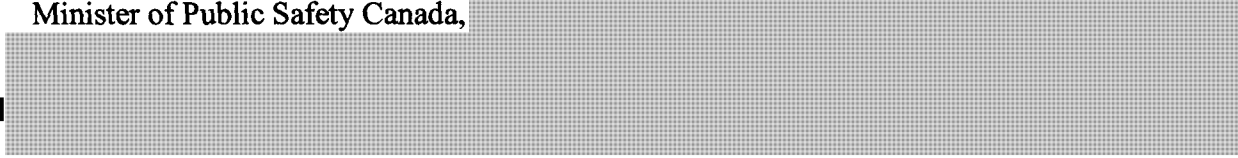
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At the September 11, 2012, bilateral meeting between Secretary Napolitano and the Minister of Public Safety Canada,

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PUBLIC SAFETY CANADA

Law Enforcement and Policing Branch

Cross Border Law Enforcement Operations

CONTEXT

Transnational crime is a threat to public safety and national security and has a direct impact on individual Canadians, businesses and the economy. It also has implications for relationships with our international partners, especially the United States (U.S.).

Threat assessments conducted by Canadian and U.S. law enforcement agencies, such as the 2011 Canada-U.S. Integrated Border Enforcement Team Threat Assessment, identify organized crime as the most prevalent threat between ports of entry. Criminal activities include significant levels of contraband trafficking, ranging from illicit drugs and tobacco, to firearms and human smuggling.

Police forces working at and near the Canada-U.S. border are increasingly faced with investigating criminal activity that extends beyond their respective national boundaries. This is especially true with respect to organized crime. Criminals, aware that Canadian and U.S. law enforcement personnel working at the shared border do not have authorities outside of their respective domestic jurisdictions, have taken advantage of this fact and have strategically organized criminal activities to avoid apprehension and prosecution.

Notwithstanding significant Canadian border security investments in recent years, more needs to be done to address identified gaps and vulnerabilities at the border (e.g., longest unmilitarized border in the world, remote geography, varied terrain). In response, the federal government has initiated the development of relevant, modern approaches to strengthen border security. This includes the formalization of cooperative policing models through the *Beyond the Border Action Plan*, such as Integrated Border Enforcement Teams (IBETs), and the pursuit of new innovative cross-border law enforcement models, such as Shiprider and the Next Generation of Cross-Border Law Enforcement (also known as "Next Generation").

This new approach maximizes resources and enables seamless law enforcement operations at and across the border, to better deter, identify and interdict mutual public safety and national security threats.

CURRENT SITUATION

IBETs

The IBET model was formally adopted by Canada and the U.S. with the implementation of the Smart Border Declaration and its supporting Action Plan (2001). IBETs are intelligence-led, multi-disciplinary law enforcement teams that are designed to enhance border integrity by emphasizing a harmonized border law enforcement approach to combating transnational crime, including terrorism. They operate in 24 strategic locations across 15 regions and co-locate intelligence resources at four sites.

IBETs bring together core Canadian and U.S. federal partners to identify, investigate and interdict persons and organizations that threaten the national security of our respective countries or that are involved in organized criminal activity between the ports of entry.

While the IBET program promotes enhanced law enforcement cooperation and collaboration at the border, and even co-locates some intelligence resources from both countries, day-to-day law enforcement operations, such as surveillance and interdictions, are conducted by law enforcement agencies in their respective jurisdictions.

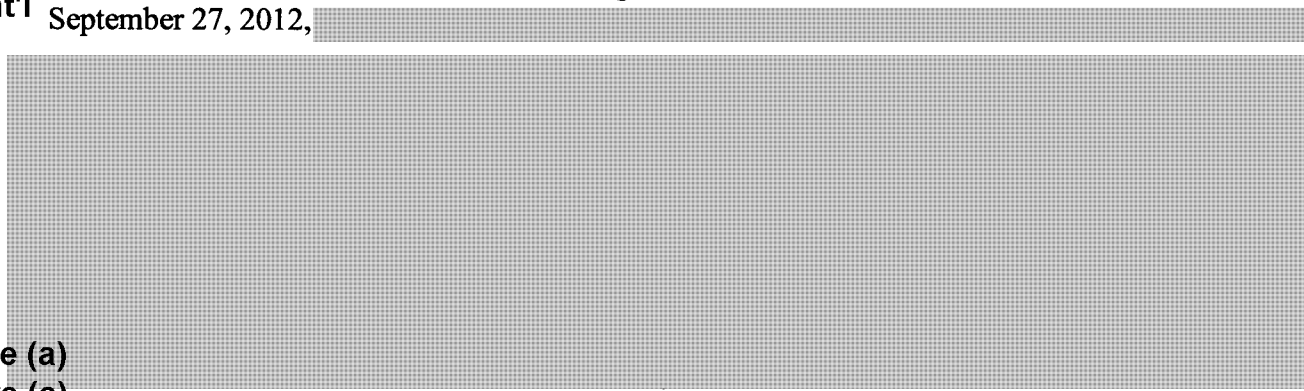
Shiprider

Unlike the traditional “coordinated and cooperative” approach employed by IBETs, new integrated cross-border law enforcement operations, such as Shiprider, involve specially trained and designated Canadian and U.S. law enforcement officers working together in dedicated teams. Shiprider officers are authorized to jointly crew marine vessels to enforce the law on both sides of the international boundary.

Following Shiprider pilot projects conducted in 2005 and 2007, which effectively demonstrated that integrated cross-border law enforcement operations had a measureable impact on cross-border criminal activity, Canada and the U.S. launched negotiations to develop a Framework Agreement to govern regularized Shiprider operations in March 2008. Negotiations concluded in April 2009 and the Agreement was signed by the Minister of Public Safety and the U.S. Secretary of Homeland Security in May 2009.

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s.69(1)(g) re (a)
s.69(1)(g) re (c)

The combination of funding for Shiprider and the passage of supporting legislation has established a necessary foundation for the implementation of regularized Shiprider operations, which were formally announced by the Minister in White Rock, British Columbia on October 12, 2012. The deployment of regularized Shiprider operations



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Next Generation of Cross-Border Law Enforcement

In November 2010, the Canadian Ministers of Public Safety and Justice, and their U.S. counterparts, the Secretary of Homeland Security and Attorney General, all identified integrated cross-border law enforcement as a priority bilateral issue at the Canada-U.S. Cross-Border Crime Forum, and instructed their respective officials to work together to develop and deploy land-based operations (i.e., Next Generation) pilot projects based on the Shiprider model.

Next Generation operations would leverage the cross-designation model first introduced by Shiprider and draw from the best practices of existing border law enforcement programs. However, unlike Shiprider, Next Generation operations would be land-based. While they would incorporate joint intelligence and uniformed presence capabilities similar to Shiprider, Next Generation operations [REDACTED]

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CONSIDERATIONS

The development of Shiprider is a natural progression in the evolution of Canada-U.S. border law enforcement partnership. Integrated cross-border law enforcement operations are an innovative approach that advances the Department's broader border integrity strategy, situates joint enforcement as a key Canada-U.S. border security priority and demonstrates to the U.S. that Canada remains a committed and reliable security partner.

Integrated border law enforcement operations [REDACTED]

s.13(1)(a)
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At the September 11, 2012, bilateral meeting between Secretary Napolitano and the Minister of Public Safety Canada, [REDACTED]

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