

Canada's "Open Door" on 9/11

Adapting NORAD

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Despite criticisms of NORAD's effectiveness on 9/11, a retrospective analysis from an original sample of 27 Canadian stakeholders in national defense, foreign affairs, and the Royal Canadian Air Force reveals Canadians deployed political capital to adapt and secure the institution's future in an uncertain environment after 9/11. Canada managed a mobility crisis, opening doors to more than 30,000 travelers flying to the United States. In the aftermath, stakeholders negotiated NORAD modifications using existing provisions to reduce insecurities and uncertainties. These findings yield two operationally relevant implications. First, NORAD's flexible structure, amendment provision, and review process facilitated modification. Second, its future requires continued partner engagement through identified processes to adapt, react, and respond to continued uncertainties in continental and global environments.

The September 11, 2001, terrorist attacks motivated an extensive examination by American stakeholders of the concept of North America and the institutions underlying the Canada-US security and defense relationship. The binational North American Aerospace Command (NORAD) link required Canada to engage in similar high-level reflections. The institution's "role is transferring information to national governments regarding aerospace and maritime threats. In performing its warning mandate[s] . . . NORAD reduces uncertainty by providing information."¹ This article examines Canadian stakeholders' memories from the day of the attack and Canada's punctual management of the mobility crisis—a product of the US decision to close its airspace.

Despite NORAD's faults, its role in shepherding 33,000 travelers through Canada to other destinations is underappreciated. Mobilizing bargaining and rational institutional notions, this article analyzes the uncertainty, information transmission, and management of Canadian airspace during crisis in collaboration with NORAD.² The article

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1. Anessa Kimball, "Future Uncertainty, Strategic Defense, and North American Defense Cooperation: Rational Institutional Arguments Pragmatically Suggest NORAD's Adaptation over Replacement" in *North American Strategic Defense in the 21st Century*, ed. Christian Leuprecht, Joel J. Sokolsky, and Thomas Hughes Cham, Switzerland: (Springer-Verlag International, 2018), 124, <https://link.springer.com/>.

2. Kenneth W. Abbott and Duncan Snidal, "Hard and Soft Law in International Governance," *International Organization* 54, no. 3 (2000), <https://www.jstor.org/>; Barbara Koremenos, "When, What, and Why Do States Choose to Delegate," *Law & Contemporary Problems* 71, no. 1 (2008), <https://scholarship.law.duke.edu/>; and "Timeline: 9/11 and Canada," Canadian Public Access Channel, accessed December 20, 2020, <https://www.cpac.ca/>.

considers 27 interviews with Canadian actors, including the transport minister, the NORAD deputy commander, and NORAD's director of operations on 9/11 and offers an original set of reflections.³

About one-third of those interviewed were connected to the Canadian Air Force, reflecting the key position of the service in NORAD for years until mandated enlargement to the maritime domain. Finally, this article mobilizes distinct approaches to explain how political capital and goodwill permitted essential modifications to NORAD, ensuring its survival in the years following the 9/11 attack and resulting mobility crisis.

The interviews completed over several months in 2014 offer a retrospective on the events and are compared to stakeholder interviews, testimony, and comments offered in the years following 2001. This article demonstrates a continuum in stakeholder narratives from the months and years immediately following 9/11 to 2014, but the timeframe the article covers is 9/11 to the 2006 NORAD renewal.

Turning Crisis Management into Political Capital

Canada co-led the mobility crisis with NORAD because assets and synergies existed. Canada's willingness to lead in managing the crisis was an often-overlooked but essential security contribution. This leadership, through participation in the Permanent Joint Board on Defense, a long-standing body, and the Binational Planning Cell/Group (2002–06), deepened the Canada-US bilateral relationship.⁴ Canada's resulting political capital facilitated bargaining adaptations to NORAD that clarified delegation—expanding NORAD's mandate and eternalizing it using mechanisms identified by rational institutionalists to manage strategic problems.⁵

Canada sought to ensure bilateral defense coordination while maintaining national defense policy autonomy given the fixed link provided by geography through the development of institutions. Continental security (including strategic defense command and control) remains fragile given that demands to centralize collective efforts rise with increasing uncertainty about the future state of the world and actor behavior.⁶ Properly

3. Université Laval, "Ethics Committee Approval," CEUL # 2012-245/07-12-2012.

4. *The Permanent Joint Board on Defence (PJBD): How Permanent and Joint? Celebrating 80 Years of Cooperation* (Manitoba, Canada: Centre for Defence and Security Studies, University of Manitoba, February 25, 2020); and Andrea Charron and James Fergusson, "From NORAD to NOR[A]D: The Future Evolution of North American Defence Co-operation," Canadian Global Affairs Institute (CGAI) Policy Paper (Manitoba, Canada: CGAI, May 2018), <https://d3n8a8pro7vhmx.cloudfront.net/>.

5. Kimball, "Future Uncertainty"; Koremenos, "Why Do States Choose"; and Kimball, "Examining Informal Defence and Security Arrangements' Legalization: Canada-US Agreements, 1955–2005," *International Journal* 72, no. 3 (2017), <https://journals.sagepub.com/>.

6. Kimball, "Future Uncertainty," 123.

designed institutions include mechanisms that manage unintended consequences from the environment and crises.⁷

When reflecting on why NORAD floundered, Richard Williams, Western Hemisphere policy director at National Defence, pondered, "(it was) a wake-up call for an agreement born [in] the cold war. . . . People looked at [NORAD] and said, 'why do we need it?' It came back to the top of the agenda. . . . It was good. . . . 9/11 put it back on the table. . . . We are serious about protecting North America(n) air, land, sea and from space."⁸ In his position, Williams was a key stakeholder coordinating the process within National Defence across the various departments. Moreover, his office was to collaborate with Foreign Affairs in responding to anything the Americans wanted to discuss concerning continental defense and security.

The strategic and operational uncertainties of the crises on 9/11 made a noisy information environment and a multistakeholder command-and-control structure even more complex. The NORAD director of operations reports to the NORAD chief of staff and is the advisor for warning and assessment of strategic maritime, missile, space and air attacks on North America. The operations director coordinates with the directorate to ensure an effective North American air defense against strategic attack and for peacetime air sovereignty.

Lieutenant General Rick Findley, Royal Canadian Air Force (RCAF), operations director on 9/11 at Cheyenne Mountain Air Force Station, Colorado, confirmed: "We routinely exercised commercial aircraft, arriving from overseas, that had something on the airplane we did not want any further than where it [landed]. So, there were some procedures and different things, levels of authority . . . to be gone through to deal with it. It was not a number one priority on any exercise. . . . Specific authorities in each nation had to be consulted for a (civilian) aircraft crisis exercise."⁹ There were kinks in the chain of command on those exercises such as adding actors, which complicated planning.

The command-and-control issues encountered on 9/11 were unpredictable. A future American congressional inquiry intimated fault lay with NORAD. Findley defended the institution's readiness in an interview in 2014. "There was no way of knowing, 'If we think in the next week or two there is going to be this type of activity'—how they are going to execute it [then] there is how we are going to deal with it, and we need the authority to engage with it and take down that aircraft."¹⁰

In 2001, NORAD mandates covered military aircraft; civilian aircraft, as offensive weapons, were not a top threat for the institution with its outward-facing threat

7. Barbara Koremenos, Charles Lipson, and Duncan Snidal, "The Rational Design of International Institutions," *International Organization* 55, no. 4 (2001), <https://www.jstor.org/>.

8. Richard Williams, director general of Western Hemisphere Policy, Department of National Defence (DND), 2006 and 2006 NORAD renewals, interview with author, April 3, 2014.

9. Eric A. Findley, RCAF, retired, NORAD deputy commander during the 2006 NORAD renewal, interview with author, February 14, 2014.

10. Findley, interview.

perceptions. NORAD's posture was northward and Atlantic facing as threats were expected to arise from either of those geographic vectors with greater likelihood than others. (The pivot to Asia for the United States would occur some years later under the Obama administration.)

Weeks later, on October 30, 2001, Vice Chief of the Canadian Defence Staff Lieutenant General George E. C. Macdonald, testified before Canada's Standing Committee on National Defence and Veterans Affairs, drawing on years at the Permanent Joint Board on Defence and NORAD Headquarters. "Leaders and planners within the military had identified the potential challenges and threats posed by terrorism long before the events of 11 September this year. This is not to say anyone anticipated the specific events, but rather that efforts were ongoing to address the many issues associated with a potential terrorist attack."¹¹

Macdonald's recollection aligns with others'—there was a terrorist threat, but it was too ambiguous and uncertain concerning immediate attributability of any attack. Strategically, NORAD was backpedaling on the day of the crisis, yet it saved tens of thousands of civilians' lives with Canada stepping up to manage the crisis.

On 9/11: An Uncertain Environment Plus a Mobility Crisis

At 9:45 a.m., reeling from the attack, the US Federal Aviation Administration national operations manager closed US airspace to civilian aircraft from abroad, a US national security decision with consequences for Canada, a continental partner. This action required the redirection and return of civilian aircraft inside no-return points for fuel capacity, an outcome Canada managed with the UK. Hundreds of planes with thousands of travelers over the Atlantic and Pacific oceans, enroute to the United States, were stranded—a midair crisis. In 2014, Findley noted that "situational awareness was quite limited at that time," echoing comments made in a 2003 CBC interview and 2011 documentary.¹²

Canada cancelled internal flights opening doors to travelers. The centralization of command-and-control power in an elected official in the Ministry of Transport facilitated management. The Canadian Ministry of Transport, led by a civilian, could retask civilian airports in a security crisis without needing concurrence by another authority, civil or military. The United States had left travelers stranded, creating an externality for its neighbor and transatlantic partners.

Through effective and efficient collaboration with NORAD and civil aviation authorities, NAVCANADA, the Canadian equivalent of the Federal Aviation Administration,

11. George E. C. Macdonald, "Evidence 28 on 31 Oct 2001" (Ottawa, Canada: House of Commons of Canada, Standing Committee on National Defence and Veterans Affairs, 2001), October 30, 2001, <https://www.ourcommons.ca/>.

12. Canadian Broadcasting Corporation (CBC), "NORAD and September 11," accessed March 11, 2021, <https://www.cbc.ca/archives/>; and Priscilla Jones, *The First 109 Minutes of 9/11 and the US Air Force* (Washington, DC: Air Force History and Museums Program, 2011), 82.

identified 239 flights destined for the United States to reroute and land on Canadian soil. Lieutenant General Ken Pennie, RCAF, NORAD deputy commander on 9/11 explained, "once the FAA decided they were not going to accept the airplanes a lot of these planes had no place to go. Some of them could go back to Europe and they did, others did not have enough gas. . . . There [was] no other option."¹³

David Collenette, the minister of Transport in Canada on 9/11, confirmed flight landing authorization was autonomously under the control of Transport—the civilian agency.

Me, absolutely. I was giving a speech in Montréal (and) was passed a note saying there had been a tragedy. I had no idea it would be a huge airliner. . . . I said to my ADM, we are going back to Ottawa. I had to make all the decisions based on advice, the lawyers [on the phones], I did not even inform the Prime Minister. There was no hesitation. Chrétien, in his book, acknowledged I made the decisions, luckily, I got it right. I didn't even talk to him until . . . 1:30 p.m. I said, 'are you going to have a Cabinet meeting?' He said, 'I can't there are not enough ministers in Ottawa (he was mad. . .) but why should we have a Cabinet meeting, you've made the decisions so go ahead.'¹⁴

Canada faced important decisions: where to land planes (coming at a rate of several per minute at one point) and the operational task of processing thousands of international citizens in several days. There was some amount of uncertainty concerning the possibility of terrorists on incoming planes despite the hijacked flights originating in the United States.¹⁵ The collaborative effort across civil aviation, local emergency, and security services accomplished the task with efficient communication and transparency.

The first planes landed at Canadian Forces Base, Goose Bay in Eastern Canada, lacking fuel to land elsewhere. Before the end of the day, Goose Bay accepted seven planes. Gander, Newfoundland, rose to the crisis due to its location; this town of about 10,000 Canadians added 6,600 travelers from 38 flights—15 percent of all incoming flights with *only two active runways*.¹⁶ Airports at Gander and Goose Bay combined with St. Johns and Halifax (21 and 47 flights respectively) managed 47 percent of incoming flights to North America. Even with more flights from the East than West, Vancouver, Calgary and Edmonton took 18 percent.

13. Lieutenant General Kenneth Pennie, RCAF, retired, director general Strategic Planning, DND-Ottawa, during the 2000 NORAD renewal, interview with author, February 5, 2014.

14. David Collenette, Canadian minister of Transport on 9/11, interview with author, February 4, 2014; Jean Chrétien, *My Stories, My Times* (Canada: Knopf, 2018); and CBC, "Untold Stories of 9-11," CBC, 2003, <https://www.cbc.ca/>.

15. David Lyon, "Airport Screening, Surveillance, and Social Sorting: Canadian Responses to 9/11 in Context," *Canadian Journal of Criminology and Criminal Justice* 48, no. 3 (2006), <https://utpjournals.press/>.

16. Jim DeFede, *The Day the World Came to Town: 9/11 in Gander, Newfoundland* (Canada: Harper Collins, 2003).

The United States closed its air space but did not think about the 500 planes in the air. So, one at a time NAVCANADA analyzed every flight with the British. We ordered half back to Europe not past the point of no return. So, we had another 239 to land; the decision (was) to land them on the east coast . . . ('listing locations'). The point is those places were the stages for the Second World War; . . . 10,000-foot runways, huge air capability infrastructure (existing) to take the biggest jets.¹⁷

In 2003, Williams testified before the Canadian Senate:

NORAD with Canada accomplished the mission ensuring that what was happening with the landing of the airplanes followed the pattern agreed to between the various civil agencies. The structure in place reacted to the circumstances and, in an orderly manner, dealt with the situation, which was horrific. It was handled in such a way that there was no further loss of life and that public confidence in the state of peace, order and good government was re-established.¹⁸

Ensuring peace and order while landing the flights, including no fatalities in the process, contributed to public confidence that the traveler crisis was being resolved by competent authorities, given the collective shock from the death tolls in the United States that day. Those involved understood the capabilities existed and the decision was facilitated by the structure in Canada. Collette explained, "the US military was much more involved. We have no military air traffic control capability, so it was exclusively us (at Transport)."¹⁹

Again in 2003, Williams further testified, "there was close coordination between NORAD, NAVCANADA and the FAA; the decision of where to put airplanes (was) more of a civil thing."²⁰ NORAD's supporting 400 fighter planes ensured the civilian flights landed where directed—a critical distinction. The defense diplomatic mission, internally named, "Operation Yellow Ribbon" normatively signaled a credible public endorsement of Canada's leadership and a successful international collaboration in a complex crisis environment demonstrating the indivisible bilateral operational utility of NORAD.²¹

Aftermath: Adapting NORAD to Manage Uncertainty

In the aftermath of 9/11, the consensus in Ottawa was that although NORAD had provided essential support, it was underprepared and therefore did not escape scrutiny. The Binational Planning Group ordered a comprehensive review to identify gaps in

17. Collette, interview.

18. Richard Williams, "Evidence 12," (Ottawa: Senate of Canada, Standing Committee on Defence & National Security (SCDNS), March 17, 2003), <https://sencanada.ca/>.

19. Collette, interview.

20. Williams, "Evidence 12."

21. "Four Days in September," Transport Canada (website), January 7, 2014, <https://tc.canada.ca/>.

continental defense and the command-and-control chain. This group included NORAD stakeholders seeking to conserve the relationship.²² Its mandate included cataloging and examining all US-Canadian arrangements to determine gaps in surveillance, warning, command-and-control, as well as the defense of land, air, and maritime approaches to the continent.

Two reports by the group, published in 2004 and 2006, addressed crisis command-and-control delegation and decision making. Key strategic problems had arisen in the continental and NORAD relationship, particularly, uncertainty about future actor behavior and uncertainty about the future state of the world, alongside concerns about ensuring Canada's credible commitment to continental defense given its wavering about NORAD's role in strategic defense.²³ Cracks had materialized within the Canadian government, and stakeholders were divided, but the external position to the United States was to signal unified support. Williams recounted:

(Starting) the (BPG) preparations, we discovered full support wasn't shared in other parts of the government . . . a shock. The FA folks felt NORAD, as an arrangement, was too cozy. It did not give them the control they were looking for in terms of a binational arrangement. . . . Military decisions were being dealt through the military chain but not through a POLMIL chain. And they started a series of blocking maneuvers to try to regain control . . . over where we were going to move, with respect to the NORAD mandate. For a period of a year, there was a sort of interdepartmental engagement, serious interoffice politics . . . keep(ing) it close within government to not necessarily indicate to the US there was friction.²⁴

Canada completed a comprehensive defense review in months, astonishingly fast. Williams recalled that "it forced us to put on the table, not only the gaps and the objectives but also the intentions we had to fill them. And the US, being serious, expected Canada to step up to the plate and contribute."²⁵ Findley argued in an interview that NORAD's survival was at risk.

During the emergence of new institutions dealing with homeland defense and security there were differing perspectives. In the end its relevance was proven, and the consensus was NORAD is a fine institution. The prevailing attitude became one of formalizing it; not tinkering with it too much; not taking it out of the box and examining it too hard, too often.²⁶

22. Findley, interview; and Pennie, interview.

23. Kimball, "Informal Defence Agreements"; Kimball, "Strategic Uncertainty"; and Barbara Koremenos, "Continent of International Law," *Journal of Conflict Resolution* 57, no. 4 (2013), <https://www.jstor.org/>.

24. Williams, interview.

25. Williams.

26. Findley, interview.

Macdonald testified, “a cruise missile attack could be another, where a country develops a capability to launch from a ship, for example, a cruise missile that may carry a high explosive or a weapon of mass destruction. Those are clearly within the mandate of NORAD Command.”²⁷ He argued investments in communications satellites were required to continue collaboration. Canada needed defense goods that reduced uncertainty about the future state of the world and increased continental situational awareness. Still, internal Canadian divisions complicated bilateral relations over strategic defense.

Perceptions of US pressures depended on one’s perspective; Canadian Armed Forces and National Defence respondents agreed on pressure to fully participate in continental strategic defense. Those at NORAD and the National Defence policy group received messages from US counterparts indicating it was proceeding on strategic defense (with or without our participation).²⁸ Foreign Affairs peers remained unconvinced.

Defense stakeholders in Canada in the Armed Forces and National Defence wanted to get as close as necessary to protect the Canada-US relationship and preserve Canada’s privileged (senior foreign policy and defense) position, whereas within Foreign Affairs there was a division between those wanting closeness to the Americans and those weary of being too close to “the elephant.” Charles Bouchard, NORAD Regional Commander-Canada on 9/11 commented in 2014, “It’s the old Trudeau with the mouse in bed with the elephant that no matter how benevolent the elephant is . . . when it rolls over it will crush you.”²⁹ This aligns with Williams’ perspective as well, stated above.

One study of several NORAD renewals (1996, 2000, 2006) identified agreement provisions shaping institutional flexibility and modifications associated with information management.³⁰ That analysis concluded amendment, review and renewal, and withdrawal provisions reduce uncertainty about partner behavior, whereas enlarging mandates, limiting the number of stakeholders, and privileging executive prerogative over information transmission associated with NORAD negotiations reduced chances of politicization domestically.

Specifically in the period following 2001, an amendment to the NORAD agreement concerning strategic defense was added in 2004, and three notable modifications were implemented at the 2006 renewal. First, the scope of the agreement was widened to maritime warning. Second, the intervals between reviews were reduced to four years from five. Finally, it was renewed ‘in perpetuity’; indicating the institution remains valid without a scheduled date to reopen its foundational concept. The agreement’s mechanisms served to ensure its endurance and adaptation to changing strategic contexts (e.g., end of the Cold War, post-9/11).³¹

27. Macdonald, “Evidence 28.”

28. Based on author analysis of interview responses.

29. Charles Bouchard, NORAD regional commander during the 2006 NORAD renewal, interview with the author, March 5, 2014.

30. Kimball, “Future Uncertainty.”

31. Kimball, “Future Uncertainty.”

Alongside the Binational Planning Group's study and reporting, in 2002 a reorganization of the US command structure resulted in the USNORTHCOM commander being double-hatted as the NORAD commander, signaling US intent for NORAD. Charron and colleagues noted, "Canada established Canada Command, the functional equivalent of NORTHCOM . . . [which was] then replaced by the Combined Joint Operations Command (CJOC);" Canada retained a legal distinction between the two commands at the national level.³² Consequently, NORAD slid beneath NORTHCOM, and thus generated the image of NORAD being subordinate to NORTHCOM, rather than independent per se. This was not replicated in Canada, as NORAD remained firmly outside of Canada Command/CJOC.

The structural distinction concerning NORAD's location in each partner's national command hierarchy evidences pragmatic institutional discretion, ensuring NORAD does not gain too much binational character for the United States while signaling respect for Canadian defense and security decision making sovereignty in a continental context.

This structural shift by the United States raised flags for those in Ottawa worried about the political externalities of Canada's implicit participation in continental strategic defense. Beyond command-and-control concerns, Canada needed to consent to a NORAD strategic defense role or risk the impending renewal in 2006 that was based on Canadian beliefs drawn from US signals—a belief shared by most National Defence interviewees. Despite uncertainties (the technology, costs, and geostrategic effects), Canada needed assurances to limit entrapment. The United States was uninterested in a separate system. Pennie, chief of the Canadian Air Staff in 2004, responded,

(It) was a red line . . . they did not want to build another system for warning. . . The [August 2004] elicited amendment took away a lot of US angst because it meant they did not have to build another warning system . . . or dismantle a core part of NORAD, and probably saved NORAD from irrelevance. There was still political support for NORAD from both sides, but it would have essentially killed it as a viable military instrument. It would have become air defense against the Russian bear [bomber aircraft] only, it would have had no other role to play. So, we dodged the bullet.³³

Despite the amendment increasing Canada's and NORAD's relevance to the Americans, Robert Fowler, a career civil servant, deputy minister of policy at National Defence, was unconvinced. "This was the maintenance of as much of the essence of NORAD without getting our feet wet. It was somewhat shameful."³⁴ The amendment permitted Canada to keep its foot in the door ensuring NORAD was protected.

32. Andrea Charron and James Fergusson, *NORAD in Perpetuity? Challenges and Opportunities for Canada* (Winnipeg, Manitoba: Centre for Defence and Security Studies, 2014), 26, <https://umanitoba.ca/>.

33. Pennie, interview.

34. Robert Fowler, DM Policy, DND during the 1996 NORAD renewal, interview with the author, March 6, 2014.

Amendment negotiations were led by Foreign Affairs, under Michael Kergin, the Canadian ambassador to the United States, who would sign for Canada. The formal consultation mechanism was meant to control American strategic defense aspirations for NORAD by ensuring Canada was consulted. Paul Meyer, from his perspective as director general of International Security at Foreign Affairs, argued,

Given the flux of American thinking, particularly on this (BMD) program . . . we had concerns and reservations. There was a concern in the loop. There was some formal acknowledgement by the American side. Insofar as they were going to take decisions [that had] implications for NORAD, there was a requirement for prior consultation with Canada. And designating that channel was a way you might say of enshrining that hope into the formal agreement. And it also allowed the Canadian government to say to critics or its own population simply, “Nothing was going to happen, insofar as NORAD is concerned, without explicit Canadian consent.” That is important!³⁵

The amendment ensures a commitment by the United States to consult Canada on strategic defense decisions within NORAD ensuring access to information and ‘reducing uncertainty about future partner behavior.’ The institution was modified during the 2006 quinquennial revision process adding two survival adaptations. The institution enlarged its mandate and anchored its legacy during a regular revision in a bargaining coup de grace.³⁶

The 2004 Binational Planning Group report suggested NORAD consider extending to maritime awareness, that is, warning and command and control.³⁷ The final mandate extended to only warning, since control increased the number of players (coast guards, navies). NORAD’s reduced stakeholders saved it from political agendas. Findley, NORAD deputy commander at the time, concluded, “why do we need to do this bilaterally, this is a national vulnerability?”³⁸

Despite the logic of centralization, William Graham, Minister of National Defence during negotiations, identified infighting for limiting a maritime mandate. “There is a good reason to have that under control of NORAD but . . . there was a kind of turf war between the Navy and Coast Guard.”³⁹ Still, Williams, seeing the interdependences from his position as director of Western Hemisphere Policy, National Defence, at the time, offered a different reason why there was an unwillingness to go beyond warning, explain-

35. Paul Meyer, director general, International Security, Foreign Affairs in 2006, interview with the author, February 25, 2014.

36. Barbara Koremenos and Allison Nau, “Exit, No Exit,” *Duke Journal of Comparative & International Law* 21, no. 1 (2010), <https://scholarship.law.duke.edu/>.

37. Binational Planning Group, *Interim Report on Enhanced Canada-US Cooperation* (Colorado Springs: Peterson AFB, CO, 2004), 55.

38. Findley, interview.

39. William Graham, Minister of Defense during the 2000 NORAD renewal, interview with the author, January 29, 2014.

ing it “was the fight within the Canadian government as to how close we wanted to get with the US on some of the big issues.”⁴⁰

Findley argued in an interview that “it (w)as an evolution. When NORAD started, it was strictly designed to provide air warning and fight bombers. As new threats emerged, for example, missiles, then missile warning became more important. As space became a reality, as an entity, then space warning became part of the mission. Then, we started doing theatre ballistic missile warning—it was . . . an evolution.”⁴¹

NORAD’s flexibility permitted adaptation; Macdonald connected the planning group to mandate change. “(It) looked at ways in which NORAD-Canada-US could cooperate beyond the traditional NORAD mission, and maritime was easiest.”⁴² NORAD retained relevance with the added mandate and adaptation. Canada faces challenges fully participating in strategic defense through NORAD because

the addition of strategic defense to its mandate requires Canadian consent per the terms of the 1996 provision but, there rests room to maneuver. Canada could set distinct terms for its participation in strategic defense within NORAD in the context of the amending agreement. But Canada faces the policy and information challenge of demonstrating strategic defense is not inconsistent with its stated policy against weapons in space to a public already skeptical of the need for it.⁴³

Renegotiation and renewal provisions manage uncertainty.⁴⁴ No one identified who suggested perpetuity. Williams asserted in an interview with the author that the idea eliminated politics, “it was difficult to bring the US to the table because they were preoccupied. If we put any barriers like a time that would run out, we risked making this a big issue and forcing something neither wanted. . . . Perpetuity spoke to us being connected at the hip in North America and that is always going to be the case. We just acknowledged it.”⁴⁵

Major General Pierre Daigle’s comments are consistent with Williams’ 2003 statements, and they testified side-by-side during Binational Planning Group development.⁴⁶ The 2003 Evidence outlined the evolution of thinking on how NORAD (and Canada) could respond to increasing coordination. It detailed command-and-control operational collaboration, and the required “vertical versus horizontal” relations. This speaks directly

40. Williams, interview.

41. Findley, interview.

42. George Macdonald, NORAD deputy commander during the 2000 renewal, interview with author, January 16, 2014.

43. Kimball, “Future Uncertainty,” 134.

44. Koremenos, “States Choose”; and Koremenos, “Continent of International Law.”

45. Williams, interview.

46. Evidence 12.

to “uncertainty about the future behavior of actors” and “concerns about the future state of the world;” both are strategic problems resolved by ending renewals.⁴⁷

In 1996, some participants suggested lengthening the renewal interval to ten years in order to reduce commitment concerns, but that did not occur.⁴⁸ The 2006 NORAD renewal replaced the five-year review and renewal clause with reviews every four years or as requested.

The 1999 Russam Affair increased high-level political attention to cross-border defense and security. Mohamed Russam, intent on destroying the Los Angeles International Airport, was caught at the British Columbia-US border days after Christmas in a truck with explosives. Several officials interviewed for this analysis referenced that particular event as a credible binational threat and indicated the risk was considered but how the threat might reveal itself functionally was not discussed. There was uncertainty about how a terrorist threat to the binational institution would manifest itself.

A renewal without modifications was signed in 2000 instead of the scheduled 2001. The early renewal prevented politicization in the 2000 US elections; advancing the calendar was pragmatic and strategic. Moreover, Canadians took the initiative to open talks.⁴⁹

The exogenous shock of 9/11 permitted the political, defense, and security conditions that compelled actors to resolve future uncertainty associated with renewals by enshrining the binational institution in international relations history, an institution created through a 1957 Exchange of Diplomatic Letters. One lasting effect of the 2006 renewal on North American defense was the resolution of commitment problems and the closure of several defense and security gaps.

Summary of Modifications

After 9/11, NORAD adopted three modifications: a strategic defense consultation amendment (2004); a renewal in perpetuity with quadrennial review process or by request (2006); and a broadened mandate to maritime warning and surveillance (2006). Canada requested the first two modifications and the Binational Planning Group proposed the third.

In these modifications Canada mobilized its recently generated political capital—the 1996 modification request had been unsuccessful—and a modified, arguably better, bargaining outcome was delivered (i.e., the absence of future renewal negotiations; limiting modifications to quadrennial review cycles and amendments). The 2004 amendment prevented entrapment in strategic defense beyond limits and offered a formally jointly

47. Kimball, “Understanding Uncertainty.”

48. Ron Guidinger, Director General of Continental Policy, National Defence during the 1996 NORAD renewal process, interview with author, January 17, 2014; and James King, Royal Canadian Navy, Associate Deputy Minister for Policy during the 1996 NORAD renewal process, interview with author, January 14, 2014.

49. Melvin Cappe, Clerk of the Privy Council during the 2000 NORAD renewal, interview with author, March 6, 2014; and Macdonald, interview.

approved addition to the institutional structure without reopening the founding documents of the institution.

NORAD modifications were designed to ease insecurities. Actors reduced sources of uncertainty while increasing commitment credibility. In tying the continental partners together by increasing the institution's mandate and clarifying its relationship to missile defense, Canada deployed the soft power of defense diplomacy to shift the institution's contours and reduce future uncertainty without major political scrutiny in either partner's capital.

Bargained adaptations notwithstanding, concerns remain due to the evolution of partners' command structures. The need for modernizing "a supported and supporting command" emphasize structural issues, and national caveats shape effectiveness.⁵⁰ These issues include the command-and-control arrangements about the tricommand relationship of NORAD, USNORTHCOM (as a double hat), and the Canadian Joint Operations Command with respect to expanding delegations of authority, and the challenges of adopting a maritime control mission.⁵¹

Pierre St-Amand testified in 2017, "it's very difficult to isolate a threat to the US from a threat to Canada and vice versa. . . . The maritime domain now is becoming a domain of interest challenging [thinking] . . . in terms of continental defense, as opposed to only from a perspective of the US or Canada."⁵² The binational command collaborates alongside national ones focused in multiple domains with independent command-and-control structures.⁵³ Divisions remain over maritime control and cyberdefense roles in conjunction with modernization equipment negotiations underway after the Canadian government's summer 2022 investment announcement.⁵⁴

North America and NORAD in Threat Management

Reconsidering North America's (NORAD's) role in managing threats reveals how partners bargained to mitigate strategic uncertainties with existing tools. First, NORAD, a binational institution, binds partners perpetually to monitoring threats in multiple domains. It diffuses information and is a forum for maintaining the operational collaboration required to ensure continental defense.

Experts observed, "if there is any North American perspective, it is only found through NORAD as a function of its binational nature and roles and missions," and further argued, "to maintain the high level of defense cooperation between the United States and

50. Charron and Fergusson, *NORAD in Perpetuity*, 18.

51. Andrea Charron and James Fergusson, *Beyond NORAD and Modernization to North American Defence Evolution* (Calgary, Manitoba: Canadian Global Affairs Institute, 2017), <https://www.cgai.ca/>.

52. Stephen Fuhr, *Canada and the Defence of North America: NORAD and Aerial Readiness*, Second Report to the Standing Committee on National Defence (Ottawa, Ontario: Parliament of Canada, 2017), 18, 25, <https://www.ourcommons.ca/>.

53. Fuhr, *North America*, 34.

54. Government of Canada, "Fact Sheet: Funding for Continental Defence and NORAD Modernization," (Ottawa, ON: Government of Canada, June 22, 2022, <https://www.canada.ca/>).

Canada, each must avoid relative gains perceptions of continental security and focus on maintaining the functional and operational aspects of its indivisibility.”⁵⁵

Second, NORAD’s essential continental public goods such as aerospace warning, aerospace control, and maritime warning (articulated around missions in Article I clause 1 of the 2006 agreement) provide a defense capability Canada could not provide alone, while Canada offers space and defense assets.⁵⁶ Yet, a third strategic concern remains—the possibility of a midcourse ballistic missile intercept over Canadian territory before its trajectory could distinguish targeting between Ottawa and Washington, DC, originating from Iran, North Korea, or China.

The geostrategic realities of Canada’s situation were identified in the 1970s; scholars argued Canada’s risks were structured by the United States, Russian, and Chinese strategic defense futures.⁵⁷ Canadian stakeholders mobilized NORAD’s mechanisms to manage uncertainty about future behavior, credible commitment, and information quality. The 2004 amendment secured consultations on a NORAD strategic defense response. NORAD’s role as a transmitter of information was reinforced with maritime awareness. Finally, granting NORAD permanence retained minimal stakeholders and protected it from national politics.

Conclusions and Operational Relevance

Jointly acknowledging the indivisibility of North American sovereignty via the permanent institutionalization of a binational command covering multiple domains of awareness is consistent with critical security arguments on state deterritorialization.⁵⁸ The practical and legal management of sovereignty concerns by US asymmetric partners motivates scholars to examine how existing institutions maintain that balance. NORAD, as an institutional actor, overcomes defense issues practically, but for philosophical reasons some stakeholders keep it off the political radar.

Treating institutions such as NORAD as delegatory independent actors has consequences for how stakeholders perceive their value. Evidence confirms leaders at Foreign Affairs and National Defence were divided over how close to get to the United States and at what political and economic costs. NORAD, as an institution, was considered too close for Foreign Affairs, leading to an internal cleavage emerging when discussing decision autonomy and strategic defense within the context of the institution.

55. Charron and Fergusson, *NORAD in Perpetuity*, 18; and Kimball, “Future Uncertainty,” 126.

56. Kimball, “Future Uncertainty,” 126–28; and Fuhr, *North America*, 31.

57. George R. Lindsey “The Realities of Strategic Deterrence and Its Implications for Canada,” (Kingston, Ontario: CAF Staff College, May 1980); and Lindsey “General Strategic Considerations Affecting BMD,” in *The Selected Works of George R. Lindsey: Operational Research, Strategic Studies, and Canadian Defence in the Cold War (The Canadian Experience of War)*, ed. Michael Wiseman (Toronto, Ontario: University of Toronto Press, 2019).

58. Stephen D. Krasner, “Compromising Westphalia,” *International Security* 20, no. 3 (Winter 1995–96), <https://www.jstor.org/>.

Canada's successful management of the 9/11 mobility crisis generated political capital and trust. The country then mobilized to reduce uncertainty, manage information transmission, and execute operational delegation through negotiating NORAD modifications and an amendment during the next five years. Canada ensured its consultation in strategic defense decisions through the 2004 amendment, and at NORAD's renewal two years later, the binational command was made permanent, retaining flexible review and enlarged to maritime warning.

An informal agreement evolved and adapted into a permanent institution with a defined region supporting bargaining notions. NORAD exemplifies three needs for Canada. It provides self-help for Canada's security and defense; it ensures Canada's voice in its own defense; and it represents a "treaty-based institution, with predictable understandings and a structure for addressing changed circumstances . . . [that continues] to serve the national interest."⁵⁹

NORAD progressively and legally secured its space in the tapestry of institutions and actors constituting North America. NORAD's flexible structure, review process, and extended mandate ensures its operational relevance into the next decades. Notwithstanding this, the institution faces uncertainties around the extent of Canada's participation in continental strategic defense (an internal information transmission issue); identifying and securing the institution's role in cyberdefense as it relates to the missions, threats and risks; and ensuring coverage in the gaps and seams of various national, territorial, and NATO commands.

Canada must convince citizens continental strategic defense participation through NORAD does not contravene national preferences concerning the "weaponization of space" supported by former Canadian Prime Minister Pierre E. Trudeau. These preferences are, partially, found in the United Nations Outer Space Treaty of 1967 and restated in a 2009 Canadian position response to the Conference on Disarmament treaty proposals for transparency and confidence-building measures concerning space security.⁶⁰

Joint financial commitment to NORAD modernization permits an opportunity to negotiate aspects of the system to advance continental strategic defense aspirations in the context of Canada's domestic constraints. The provisions of the agreement can let Canada determine how far it will collaborate with the institution without fundamentally changing the structures in place.

This remains highly relevant to the Canadian Air Force, defense, and civilian national security decisionmakers as stakeholders determine what equipment is required for

59. Michael Dawson, "NORAD: Remaining Relevant," University of Calgary, School of Public Policy Research Papers, 12, no. 39 (2019), <https://papers.ssrn.com/>.

60. UN General Assembly, Resolution 2222 (XXI), Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, A/6431 (December 19, 1966), <https://www.unoosa.org/>; and Canada, "On the Merits of Certain Draft Transparency and Confidence-Building Measures and Treaty Proposals for Space Security," CD1865, working paper, UN Conference on Disarmament, June 5, 2009, <https://www.reachingcriticalwill.org/>.

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NORAD modernization and sufficient for collective continental defense as threat sources have multiplied, diversified, and broadened geographically. As a bilateral institution, NORAD's future requires continued engagement by partners through identified bargaining processes to review, adapt, and respond to future uncertainties presented by the global strategic environment. → ✳

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