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Tim Legrand & Christian Leuprecht

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Securing cross-border collaboration: transgovernmental enforcement networks, organized crime and illicit international political economy

Tim Legrand ^a and Christian Leuprecht ^{b,c}

^aDepartment of Politics and International Relations, University of Adelaide, Adelaide, Australia; ^bPolitical Science and Economics, Royal Military College of Canada, Kingston, ON, Canada; ^cDepartment of Political Studies, Queen's University, Kingston, ON, Canada

ABSTRACT

In a globalizing world, cross-border enforcement networks are rapidly emerging as important mechanisms to tackle illicit transnational markets. As a relatively recent mode of cross-border governance, both the IPE and public policy literatures have only just begun to explore the dynamics and implications of cross-border policy networks in general and security networks in particular. Cross-border enforcement networks are similar to current IPE conceptions of transgovernmental networks, yet the comparative analysis of such networks in this article shows that they extend, and differ, from transgovernmental networks. Instead, transgovernmental *enforcement* networks are emerging as a comparable but distinct transnational model and thus warrant emancipation as an object of study in their own right. By exploring two network cases concerned with US-Canada cross-border tobacco smuggling, the article discerns and describes factors and conditions that account for different outcomes among select U.S.-Canada cross-border security networks: IBET/Shiprider and MYGALE. Data was collected by analyzing open primary sources and conducting interviews with subject participants in these policy networks. Based on these observations, the article generates insights that can subsequently be scrutinized using other cross-border policy case studies.

KEYWORDS

Transgovernmental; illicit international political economy; cross-border enforcement; policy networks

Introduction

Illicit markets flourish in the underbelly of globalization. By traversing borders, criminal enterprises can make vast sums in illicit markets, and evade detection by exploiting law enforcements' jurisdictional and resource constraints. These are truly globalised markets, flooded with narcotics, counterfeit goods, money-laundering, protected wildlife, slavery, arms, and trafficked people. Though these darker dimensions of globalization are, by nature, difficult to discern empirically, their role and influence in driving all forms of economic and social processes is omnipresent (Shelley, 2018). In 2014 the UK revised its GDP calculations to align with European Union rules to include estimates of illegal economic activities, and in doing so added £50 billion to its economy (Civil Service

CONTACT Christian Leuprecht  christian.leuprecht@rmc.ca  Political Science and Economics, Royal Military College of Canada, Kingston, ON, Canada; Department of Political Studies, Queen's University, Kingston, ON, Canada

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Quarterly, 2014). In 2019, the World Economic Forum (2019) estimated the size of the global illicit economy as US\$2.2 trillion per annum, but tracking this economy is no mean feat – no single national or international agency has responsibility to monitor global illicit economies.

Niko Passas has argued that illicit cross-border criminal enterprises flourish because of ‘criminogenic asymmetries’ in the international system. These asymmetries exist as ‘structural discrepancies, mismatches and inequalities in the realms of the economy, law, politics, and culture’ (1999, p. 402) and these drive international criminal enterprise by fuelling demand for illicit commodities, generating material incentives for people to be involved in criminal enterprise, and by reducing the capacity of law enforcement to counter that crime. What is more, modern advances in technology and communications, and the emergence of a global *digital* economy, further catalyse illicit markets and supply chains that span countries, and often continents (Bancroft, 2020).

Against this backdrop of transnational and networked modern criminal organisations, John Arquilla and David Ronfeldt’s 2001 work presciently observed that ‘It will become crucial for governments and their military and law enforcement establishments to begin networking themselves’ (2001, p. xii). And so the past 20 years has seen greater cross-border cooperation between countries. Recognising the scale of international illicit trade, state law enforcement agencies are increasingly mobilizing beyond borders. They share data and intelligence with peers elsewhere, pursue criminal enterprises across the world securing prosecutions through national or international courts and, in recent years, establishing cross-border collaborations. Illicit international markets, in short, drive states to innovate new transnational processes, capacities and policies. Cross-border law enforcement initiatives have become an important enforcement mechanism in facilitating such cooperation. These ‘enforcement networks’ are similar to traditional policy networks insofar as they are comprised of government and non-state actors concerned with drafting and enforcing border security policy.

Theorising the global flows, processes and intersections of money and power is, of course, the preserve of International Political Economy, though with much divergence beyond that touchstone. Though Illicit International Political Economy (IIPE) had previously ‘fallen through the disciplinary cracks of the social sciences’ (Andreas, 2004, p.642), in the past ten years IPE has welcomed IIPE into its variegated schools. By acknowledging the existence and importance of unlawful economies, IIPE unlocks new possibilities of theorising non-traditional or informal exchanges including forced labour and people trafficking (Phillips, 2017); fragile states (Patrick, 2011); illicit capital inflows to fragile and developing states (Oliver & Jablonski, 2013); corruption (Cooley & Sharman, 2015); arms smuggling (Efrat, 2012); illicit financing (Naylor, 2002); and the terrorism and organised crime nexus (Picarelli, 2012; Warde, 2007). But what does the IIPE make of the state’s role in ‘regulating’ the illicit economy (*qua* crime-fighting)? Realist IPE scholars are fond of reprising Susan Strange’s (1996) claim that global forces have forced the state into decline. Andreas labels such suggestions as ‘overly alarmist and misleading’ (Andreas, 2017, p. 575). The persistence (and perhaps growth) of illicit cross-border activities creates an incentive, pressure or imperative *for the very opposite* – a more interventionist and activist state (e.g. Held, 2000, p. 28); indeed, a state that goes beyond its territoriality to give effect to its laws. But the larger question of *how* the state adapts to illicit economies remains live: Indeed, we might ask if new

transnational challenges have stimulated a more active state posture, bucking the ‘retreat of the state’ and reasserting sovereignty in new ways? Have resource-intensive unilateral initiatives of a by-gone era of state-centrism given way to a new era of smart, multi-lateral collaboration?

In common with the contributors to this special issue, and building on recent work in IIPE, this article mandates the marriage of both IPE and public policy concepts to better our understanding of how illicit globalization is forging new mechanisms of global governance. For both public policy and IPE scholars it is becoming increasingly apparent that illicit markets are just as important as licit markets in provoking new forms of policy-making in and through cross-border collaboration.

The aim of this article is to deepen empirical knowledge of cross-border government collaboration and its relation to the transnational illicit economy. In so doing, we explore how illicit cross-border economies have driven the emergence of new policy-making approaches: transgovernmental enforcement networks. To do so, the article examines the development of enforcement networks along the US-Canada border: two adjoining states with a long history of alliance and cooperation. Smuggling across this border has posed a perennial problem for both governments, and here we look at the example of tobacco smuggling in our substantive case. We seek to answer questions on the nature of cross-border enforcement networks, cooperation along the US-Canadian border and situate the findings in the broader literature on transgovernmental policy networks. First, this article surveys the literature, analyzing relevant questions in the fields of policy and border studies. Second, the article draws on evidence from two successful case studies. Third, the article compares the networks on five factors.

Illicit international political economy (IIPE)

Since time immemorial criminal enterprises have found advantage in crossing borders, a fact that is even more resonant in the era of globalization. Skirting the border are ‘dark’, ‘hidden’, ‘shadow’ or ‘clandestine’ (Dillman, 2007) economies that thrive in shadow of the state. Up to the border, and beyond, the state’s capacity to enforce its laws is challenged by topography, resources, and by the physical and legal limits of jurisdiction. Interest in illicit markets is long-standing, with prominent work by Mancur Olsen (1993), Louise Shelley (1995) and others setting out the contours of global criminal economies. In this article, we focus on how illicit global markets challenge the authority of the state, and the resulting theoretical interest framed as *Illicit International Political Economy* (IIPE) (Andreas 2004; Friman & Andreas, 1999). According to Peter Andreas, ‘The illicit global economy is defined by clandestine cross-border flows of people, goods, money, and information that are unauthorized by the sending or receiving country’ (Andreas, 2004, p. 782). Andreas argues that scholars working in IPE have, by and large, ‘tended to gloss over the clandestine dimensions of globalization, preferring to focus on the more formal and visible (and more easily measurable) side of global production, trade, and finance’ (Andreas, 2015, p. 782). For example, the otherwise authoritative *The Routledge Handbook of International Political Economy* (Blyth, 2009) offers a commanding survey of the global diversity of IPE scholarship, but almost entirely ignores IIPE, touching only briefly on a (realist) proposition that the disruptive effects of globalization may ‘likely

create an environment conducive to insurgency and civil war, and empower transnational criminal networks and terrorist organizations, creating distinct opportunities and incentives for political violence' (Kirshner, 2009, p. 41).

The comparatively less work in this area is a function of the logistical and methodological problems of acquiring reliable data on the scale and nature of illegal activities. Uncovering approximate data on illicit crime is constrained by access and militates against the production of rigorous research, at least on a scale comparable with IPE approaches that utilize more readily available data on 'licit' activities (e.g. See Nicola Smith, 2017). Notwithstanding the methodological challenges faced by IPE scholars, there is little doubt that the divide between licit and illicit political economies is artificial anyway; the underlying economic dynamics of interest to IPE are by and large the same (e.g. Ryner, 2006) even if access to data is easier for one than the other, and the difference between licit and illicit exchanges of goods and services is often indistinguishable, not least because country laws vary on what constitutes a lawful economic activity and, moreover, illicit activities are often embedded with licit ones. Indeed, when we consider that estimated global value of illicit trade and transnational criminal activities was estimated in 2011 to be around \$650 billion, or around \$2 trillion if money laundering is included (World Economic Forum, 2015), both the proportions and the span of uncertainty underlines the importance of work in this area and the scale of the task ahead.

Emergent national policy responses to global dilemmas of the illicit economy

A public policy approach can shed light on forms of cross-border governance that have emerged in response to illicit international political economy. And so the approach undertaken here is to examine IPE from the 'other side of the coin'; to explore the nascent governmental responses stimulated by cross-border illicit activities. Already, an emerging body of public policy scholarship has moved 'outwards' beyond state-centric analytical foci to capture a fuller picture of the international inputs, influences and imperatives of public policy. Amongst those concerned with the beyond-the-borders breadth of influences on policy-making are those who examine networks of officials in formal and non-formal settings – Stone (2013) calls this the 'global agora' – to find multi-lateral approaches to cross-border issues. Legrand (2015, 2016, 2019, 2021) explores the emergent cross-border collaboration amongst Anglosphere states in border and immigration agencies, policing and counter-terrorism agencies, and more. This work argues that these collaborations represent a renewal of state sovereignty (2019). These are networks of government actors, in strategic, advisory and/or enforcement roles, operating beyond their statutory jurisdiction, that is, relationships of mutual benefit that can be formal or informal. This work draws on both policy transfer and policy network concepts to examine modes of interdependence between government and other state or societal actors. Rhodes (2006) posits the field of policy networks as dominated by three main groupings: policy networks as description, reform and theory – those who see policy networks as a 'metaphor for governance', those who analyze policy networks descriptively and those who see policy networks as a tool to facilitate empirical analysis (Oliver & Acuto, 2015). Similar to the above-listed

‘descriptive network’, networks as description is used to discuss aspects of networks such as interest mediation and governance. ‘Policy networks as theory’ seeks to explain network behaviour, while ‘policy networks as reform’ sees networks as a type of management in the public sector (Rhodes, 2006).

These concepts of agent interaction have been widely applied ‘above the state’ to study or explain the *transnational networks*: coalesced groups of policy officials that operate within complex global intersections of non-state/state organisations, agencies, and international organisations (e.g. Stone & Moloney, 2019). Cerny (2009, p. 148) explains this ‘third level’ of transnational interplay within complex globalization as: ‘transgovernmental networks, transnational policy communities, internationalized market structures, transnational pressure and interest groups and many other linked and interpenetrated markets, hierarchies, and networks’. The rise of transnationalism is especially important to studies on crime as criminal organizations increasingly operate within, and are indeed constitutive of, the complex structures that add up to globalization. Within this family of related concepts is *transgovernmental networks* (TGNs). TGNs are broadly understood as informal, horizontal associations of government officials working together, across borders, to manage shared policy or regulatory problems. They were first identified by Keohane and Nye, who described transgovernmental relations as ‘sets of direct interactions among sub-units of different governments that are not controlled or closely guided by the policies of the cabinets or chief executives of those governments’ (Keohane & Nye, 1974, p. 43). They explain that transgovernmental coalition building ‘takes place when subunits build coalitions with like-minded agencies from other governments against elements of their administrative structures’ (Keohane & Nye, 1974). Ensuing work offered empirical backing to Keohane & Nye’s observation of this emergent form of cross-border interaction, depicting it as a ‘new transgovernmental order’ (Slaughter, 1997, p. 184) that operates as a mode of governance that flexibly resolves common policy challenges that originate transnationally. Transgovernmental scholarship finds that TGNs operate as informal mechanisms of policy coordination, information-sharing (Bach & Newman, 2014), policy transfer (Legrand, 2015) and leverage for collective regulatory activities (Eberlein & Newman, 2008). This literature posits transgovernmental networks coalesce as a strategy to overcome the jurisdictional, legal and sovereignty questions that otherwise confound collaboration between states. As *informal* networks, they require no formal or legal commitments, which are costly, difficult to get approved and cumbersome to administer. Rather, they operate on high levels of common trust, goodwill and shared goals. Without the need to transfer, relegate or transform sovereignty, they are adaptable and relatively quick arrangements to establish (and disestablish), making them responsive mechanisms suitable for the caprices of the global environment.

Emerging from this literature is the understanding that transgovernmental networks are arrangements amenable to and suitable for tackling cross-border crime. In his 1993 work, *Cops Across Borders*, Nadelmann observes that ‘international law enforcement arrangements tend to be bilateral and generally cooperative’ (Nadelmann, 1993 [2010], p. 9), but also observed how some forms of transnational crime have prompted emerging global, multilateral arrangements. In more recent work, Andreas and Nadelmann argue that ‘Transgovernmental enforcement networks are more expansive and intensive than

ever before, encouraging and facilitating a thickening of cross-border policing relationships' (2008, p. 232). Likewise, Slaughter's *A New World Order* traces the emerging contours of transgovernmental network collaboration, and similarly finds:

Networks of government officials—police investigators, financial regulators, even judges and legislators—increasingly exchange information and coordinate activity to combat global crime and address common problems on a global scale (Slaughter, 2009, p. 1).

The last few years have seen more empirical work on transgovernmentalism in policing. Aydinli and Yön (2011) study of Police Liaison Officers and transnational terrorism characterise cross-border liaison as 'transgovernmental network collaboration', understood as high degrees of informality, depoliticization, and demonopolization (see also Andreopoulos, 2013). Legrand demonstrates that transgovernmental networks operate with depth, including strategic coordination amongst elite officials, and implementation and practical collaboration amongst subsidiary networks (Legrand, 2015, 2019). Though some scholars have expressed concerns for the democratic legitimacy of transgovernmental policing networks (e.g. Boer, Hillebrand, & Nölke, 2008; Legrand, 2015), Aydinli and Yön (2011) conclude PLO's operate within the bounds of administrative capacity and legitimacy, representing a 'statist transnationalism'. We contribute to this literature by exploring two case studies in which the problems of informalities of transgovernmental networks are overcome by not diminishing sovereign authorities, but instead enhancing and pooling sovereignty.

Enforcing the Canada-US border

We ground these theoretical questions in recent literature on enforcement along the US-Canadian border. Since Nadelmann's 1993 work, studies on border security across North America have become plentiful – indeed, in the words of Andreas (2003a, p. 1), 'In both political debates and policy practice, borders are very much back in style'. Charles Doran's (1984) work set the foundations of international relations research on the diverse dynamics of cross-border relationships within international politics by conceptually specifying the 'psychological-cultural', 'trade-commercial' and 'political-strategic' dimensions of the Canada-US relationship. Today, the US-Canada border remains a well-traversed issue. Kent (2011), for example, frames US-Canadian border cooperation as a compromise between disparate national interests in which Canada is primarily concerned about trade while the United States is more concerned about terrorism and illegal migration. For Kent, the outcome of cross-border policy appears to hinge on a compromise: between both countries, and between ideals, sovereignty and practicality. Meanwhile, Von Hlatky (2012) contends that, 'Canada-US border policy has been characterized by adaptive learning, which can be broadly understood as policy innovation resulting from past experiences in a given issue area'. Yet von Hlatky further claims that, despite ambitious plans for cooperation, the realities of policy coordination between the two states are hindered by political and economic constraints.

Research exploring the US-Canada 'borderlands' has increasingly focused on post-2001 'securitization' at the border. On this theme, Loucky and Alper (2007) identify an inherent tension between the imperatives of 'economic globalization' and 'territorial security' at the US-Canada border. Alper & Loucky suggest that federally administered

‘technocratic border policies’ are cumbersome, harm security objectives and can ‘deepen disconnects between local populations and national centers, and thereby undermine legitimate preventive efforts against criminal activity’ (Loucky & Alper, 2007, p. 25). Andreas (2003a) contrasts the lack of the literature on clandestine transnational actors (including tobacco smugglers) with the rise in transnational policing efforts. While borders, and the image of national sovereignty that accompanies borders, are commonly conceptualized in military and economic terms, Andreas posits a shift towards organized crime as a top priority and policing it as a symbolic of national security. By way of example, Daudelin, Soiffer, and Willows (2013) and Leuprecht (2016) explore the significant threat tobacco smuggling poses to both countries and its ripple effect on security in the form of collateral crime, migrant and weapon smuggling, and financing of organized crime groups. Criminal enterprises rank as a top concern in the US-Canada Joint Border Threat and Risk Assessment (2010), which explicitly mentions the high costs associated with tobacco smugglers (Department of Homeland Security, 2010). Contraband tobacco, specifically trafficking over the US-Canada border, began to take off in the early 1990s (Gabler and Katz, 2010a). While most of the smuggling is concentrated along the Ontario/Quebec-New York/Vermont border, the practice is spreading to the Maritimes and Cascadia border. Smugglers purchase their cut-rag tobacco in the Carolinas or Virginia where taxes are low, then move it perfectly legally across the United States as a ‘farm crop’, then traffic it to Canada where loose-leaf tobacco is a ‘controlled good’. The actual criminality in smuggling comes only in a small window, narrowed further by nimble and sophisticated organized crime groups – where law enforcement can act, in the case of contraband tobacco when it crosses the border in areas that are not Aboriginal reserves. In Canada the loose-leaf is processed into cigarettes, often on reserves along the St. Lawrence river in Ontario and Quebec, and re-distributed across Canada and back into areas in the United States with high cigarette taxes, such as New York City. Some 175 organized crime syndicates are thought to be involved in producing, smuggling and distributing contraband tobacco (Oliver, 2010). Contraband tobacco is estimated at \$2.1 billion in lost tax revenue per year to Canada and \$1.7 billion to New York State alone. The transnational enforcement responses by the United States and Canada that are detailed in this article are illustrative of how illicit economies are provoking novel modes of transnational governance.

US-Canadian cross-border collaboration in policy and practice

This study deploys a dual comparative case study approach to chart the emergence and progression of two specific types of cross-border transgovernmental networks. The empirical research relied on here is mainly based on two sources of data: open-source public communications (such as press releases, memoranda and media reporting) and elite interviews conducted with participants in both case studies. The purpose of the interviews was two-fold: to glean information about the case studies not available publicly and to explore the views and experiences of these networks by insiders. The researchers conducted seven interviews with participants from law enforcement and governmental agencies on both sides of the border. Questions were open-ended to reveal not only practical information about the networks but also analyze different answers and how the choice of words differed among respondents. This provided insights into cultural

differences across the networks. Data gathered for this article will then be analyzed under the lens of a descriptive policy network school to inform our knowledge of the structure of relationships and factors in the process of evolution.

In selecting cases, we aimed to maximize the learning possibilities by choosing two case studies with distinct characteristics. On the one hand, the Shiprider program, which is an extension of the Integrated Border Enforcement Teams (IBETs), marks a multi-year collaboration by two main enforcement agencies from different countries. This cooperation has specific objectives and tasks. On the other hand, project MYGALE represents an ad-hoc transnational network created to address a specific problem over a short time line. Project MYGALE involved enforcement agencies at the national, provincial and municipal level on both sides of the border. We explore how both networks have evolved by focusing on the genesis and the obstacles each network had to overcome. Limitations to this approach include the inherent bias of press releases and official documentation, which are often spun to shed a positive light on the project, as well as the implicit biases participants can pick up when working in such a network. To mitigate this limitation, we drew on a wide array of sources and interviewed participants who were involved in multiple aspects of each project, including the RCMP, the Canadian government, SQ, the USCG and the US Customs and Border Protection Agency.

Integrated Border Enforcement Team

Integrated Cross-border Maritime Law Enforcement Operations (ICMLEO) emerged as a maritime arm of IBET. It has representatives from the USCG and the RCMP who are cross-designated and thus able to exercise enforcement powers on both sides of the border (Government of Canada, 2014). While neither IBET nor Shiprider focuses solely on contraband tobacco, smuggling is among their top priorities and both have occasioned seizures of contraband tobacco.

The evolution of Shiprider and IBET dates back to the 1990s, arguably originating in 1996 with the Cornwall Regional Taskforce (CRTF). Growing concern in the United States about the porous nature of the Canadian border had Canadian policymakers looking for ways to pre-empt any disagreement with their neighbour. In 1996, BC and Washington had piloted the first Integrated Border Enforcement Team (IBET) which was a locally driven initiative by the RCMP, USCG and border officers working in that area. It was originally defined as an 'innovative method to address cross-border crime along land and marine borders between British Columbia and Washington State' (Public Safety, 2015b). The project was not initially intended countrywide. However, it was deemed a local success. At the 1997 Cross Border Crime Forum officials on both sides of border were receptive to the idea of expanding it and agreed to undergo bi-national threat assessments to define priorities for the IBETs. Still, there was no dedicated funding or political imperative to implement the teams until after 9/11. The events of 9/11 were the catalyst for a new era of US-Canadian border collaboration. Canada immediately proposed a number of 'smart' border initiatives to increase security to prevent a hardening of the border. One of these was the Smart Border Accord, which focused on expanding IBETs, providing them with dedicated resources and staff, and increased information sharing (U.S. – Canada Smart Border/30 Point Action Plan Update, 2002). The defined priorities of IBET were: national security, organized crime and other border crimes and it

worked to tackle these priorities by sharing intelligence, cooperating on investigations and leveraging resources (Aitken, n.d.). Five main agencies cooperated: the RCMP, U.S. Coast Guard, Canada Border Services Agency, U.S. Customs and Border Protection/Office of Border Patrol, and U.S. Bureau of Immigration and Customs Enforcement (US-ICE) (Watson, 2009).

The period between 2001 and 2007 is widely considered the ‘heyday’ of IBETs as this project expanded to 23 teams across 15 locations. There was a strong commitment on both sides to implement this project and it precipitated a number of successes. While IBETs marked the beginning of a relationship in cross-border enforcement, only Shiprider inaugurated integrated cross-border enforcement (Van Dusen & Miller, 2011).

The Shiprider program 2005 -

It is an eternal frustration for border enforcement officers that land or maritime jurisdiction stops abruptly at a border, while smugglers can evade capture by crossing into another country or non-jurisdictional waters where pursuing agents have no authority. This frustration amongst Canadian and US border officials prompted the idea of crewing boats jointly to conduct *seamless enforcement* on both sides of the border. In the early 2000s, officials within IBETs had been looking to incorporate joint marine operations; so, when this idea was brought to their attention, planning for ‘Shiprider’ begun (Watson, 2009). The initial concept was piloted in the Windsor–Detroit area in 2005, during which teams identified issues such as initial deficiencies in interoperability and a need for more training (Reid, 2011). Subsequently, teams received additional training and a longer pilot trial was planned for the 2006 Super Bowl in Detroit, for which a mandatory training program was developed at the Coast Guard Academy (Watson, 2009). The creative innovation achieved by this program was, upon completion of the training program, *RCMP officers are cross-designated as US Customs officers and the USCG as RCMP supernumerary constables* (Watson, 2009). As a consequence, Shiprider officers are authorized to enforce federal law on both sides of the border. Together, enforcement officers are able to cross the border in pursuit of suspects without running afoul of sovereign jurisdiction.

On a practical basis, the Shiprider program consists of jointly crewed vessels that undertake regular patrols on waterways between the two countries, during special operations for large events (Royal Canadian Mounted Police, 2015). In Canadian waters, the Shiprider crew is subject to Canadian laws and all operations are under the direction and control of the RCMP; the corollary applies in American waters (Royal Canadian Mounted Police, 2015). Between 2013 and March of 2015 Shiprider programs in British Columbia/Washington State and Ontario/Michigan made 820 joint boardings on Canadian and U.S. vessels and accumulated over 4,150 patrolling hours. Surge operations along the New Brunswick/Maine and Quebec/U.S borders lead to 185 patrols and 322 boardings (Public Safety, 2015b, p. 14). Yet, major successes appear few and far between: a 2014 investigation that led to the arrest of two US citizens and the seizure of 115 cases of water pipe tobacco (each case weighing around 6 kg) and a 2007 investigation that led to the seizure of approximately 40,000 cartons of cigarettes, the arrest of 18 individuals in

Nova Scotia and a disrupted drug and contraband tobacco distribution network (Public Safety, 2009). That is not much to show for five full-time Shiprider operations along the border (US Embassy and Consulates in Canada, 2015).

Operation MYGALE 2016 -

Operation MYGALE (2016) was the second of two large-scale tobacco smuggling investigations to counter contraband tobacco in Canada. The first large-scale contraband operation with cross-border partners to make the news was Operation LYCOSE in 2014. Both operations were launched under the direction of Sûreté du Québec (SQ), the Quebec provincial police force, with cooperation from a number of Canadian and American partners. MYGALE alone involved 700 police officers and partners from Canada Border Services Agency, the Royal Canadian Mounted Police (RCMP), the Ontario Provincial Police, SQ, Immigration and Customs Enforcement, Drug Enforcement Administration and various municipal police services. The enforcement network developed for MYGALE (and LYCOSE) is a Joint Taskforce that has the agencies working side-by-side for the duration of the project. Enabled by Quebec empowering itself with crime specific to tobacco through Bill-59 in response to federal inaction, the Taskforce was initiated by U.S Homeland Security Investigations (HSI) – which has extensive experience combatting transnational crime – and launched through Quebec’s ACCES Tabac legislation and includes SQ officers seconded to his (Coalition Québécoise pour le Contrôle du Tabac, 2013). MYGALE was heralded as the ‘largest raid of its kind in America’ and culminated in the seizure of \$13.5 million worth of tobacco, more than \$3 million in U.S. cash, \$1.5 million in Canadian cash and more than 800 kg of cocaine (Feith, 2016). 60 individuals were arrested, many with ties to biker gangs and organized crime. Among the innovations in MYGALE was to make better use of more aggressive provisions in the law that better capture the nature of the crime. Charge of fraud against the Crown (as opposed to lesser crimes such as actual tobacco-related criminal charges) were laid against 16 of 21 accused, which acknowledges that the government is the main damaged party in the trade of contraband: The criminal organization reportedly imported 158 tobacco shipments since August 2014, totalling more than 2 million kilograms and representing tax fraud of over \$530 million (Feith, 2016). MYGALE uncovered a global drug trafficking ring that was being financed by the easy money of contraband tobacco. The money laundering angle shows how smuggling is connected to contraband goods being managed by Organized Crime Groups. Investigators disrupted a group with connections across Peru, Mexico, Colombia, the United States, Canada and Europe (Thibault, 2016).

Cross-border collaboration in network perspective

The research was guided by questions surrounding the initial formation of the networks and the obstacles each network faced to understand the formality of relations within the network, how external factors have shaped their evolution and, ultimately, to provide a better picture of necessary and sufficient conditions that determine the outcomes of both networks. Assisting our analysis, we draw from Marsh and Rhodes’ typology of four categories of exogenous factors of change that play an important role in shaping policy

networks. They define these categories as economic, ideological, knowledge based/technical and institutional (Rhodes & Marsh, 1992). We choose to analyze derivatives of these categories to gauge the environment surrounding these enforcement networks: (i) informality; (ii) financial constraints; (iii) political constraints; (iv) technical/skill constraints, and; (v) legal constraints.

(In)formality

The first question we sought to examine was whether the initial relationships that formed these networks were informal or formal in nature. In accordance with Salter and Piché, we found that informal relations instead of government policies drove the working cooperation of enforcement officers along the border (Salter & Piché, 2011). Indeed, both IBET/Shiprider and the MYGALE taskforce were expanded from local, ad-hoc collaborations. The genesis of IBET can be traced back to the pilot run by joint local BC and Washington authorities in the early 90s. While IBET across the country is formally driven by a series of collective agreements, the idea behind Shiprider came from similarly informal beginnings. One official at the RCMP identified the moment of genesis as an informal discussion between a high-level UCSG and a RCMP officer while socializing after work. In the case of MYGALE, relations began by officers communicating informally with their counterparts across the border. This collaboration was formalized with a simple phone call between HSI and the SQ agreeing to work together.

Financial constraints

The first external factor we compared across both networks was the effect of budgetary constraints on the success of the network. This constraint proved significant for Shiprider. Every participant we interviewed who was involved in Shiprider mentioned funding as one the largest initial obstacles these teams faced: While Shiprider had begun running pilots in 2005, only with the Beyond the Border Action Plan in 2011 participants felt they finally had sufficient funding to deploy all necessary resources. By contrast, finances did not appear to have a large effect on MYGALE. This may be explicable in terms of the ACCES Tabac legislation in Quebec, which sets aside dedicated funding to counter illegal tobacco and alcohol. Additionally, due to the ad-hoc nature of the case no permanent resources were required. Instead, Canadian and American partners are able to pool existing resources for joint investigations.

Political constraints

Ideology is a complex multi-dimensional variable to operationalize, so here we used the of the party in power, and their ideological focus on national security. We found that the MYGALE Taskforce felt few effects from changing political parties, probably due to the provincial nature of the network. Shiprider and IBET, however, had different experiences with political constraints. Reflecting the contrasting political constraints, while American actors in the networks stressed the lack of politics involved, Canadian actors emphasized the importance of having a political party with the motivation to focus on border security. In this sense whereas, for the US, border security held bipartisan support, and

so escaped the rancour of political interference, the same was not true of Canadian national politics, for which border security remained subject to the turbulence of everyday politics.

Technical/skill constraints

Technical constraints were one of the obstacles documented in the open literature on Shiprider. After the first pilot in 2005 a vast technical discrepancy between USCG and RCMP officers became apparent. The RCMP officers had significantly less experience with marine operations: only two were qualified boat operators; but the RCMP had more skills in criminal investigation and interrogation techniques than the USCG (Royal Canadian Mounted Police, 2015). There were also doctrinal differences in how both agencies approached work, with the USCG more concerned with tactical policing and pursuit of vehicles and the RCMP more focused on long-term investigations. The Shiprider program was able to overcome this obstacle by creating a joint training program that teaches technical skills as well as the laws and enforcement customs in both countries. The MYGALE taskforce experienced fewer technical barriers. We suggest that this is due to the nature of the taskforce, which relied more on leveraging diverse skills among agencies rather than the ability of sworn members to work interchangeably. There was, however, training for SQ officers who became cross-designated, which may have reduced the potential for technical friction.

Legal constraints

Legislative constraints appear to have posed the largest obstacle to the MYGALE taskforce. One of the legal hurdles identified was information sharing. While a Joint Investigation allows the taskforce to operate under a Memorandum of Understanding on information sharing instead of having to go through the lengthy formal process, there was still friction in court over the admissibility of evidence. Additionally, while HSI was able to designate SQ officers as HSI officials, there is no process to do the converse in Canada. This inconsistency in legislation hindered the taskforce's ability to be truly cross-border. In the cases of IBET and Shiprider, one of the largest hurdles mentioned both in the literature and by interviewees was defining the parameters under which cross-designated officers would work. Shiprider was initially met with some controversy over how far the powers of cross-designation would go. Much of the controversy stemmed from inconsistent legislation between Canada and the US on important law enforcement procedures such as surveillance and regulations concerning guns.

These categories illustrating the dimensions of network collaboration provide a *prima facie* insight into this cross-border case study. Yet though we specify these five dynamics as analytically separate, we would emphasise that that subtle interlinkages, overlaps and synergies exist between the categories. Two levels of these stand out. At the higher organisational level, political, legal, and financial dynamics are firmly co-dependent insofar as, for example, political decision-making in IBET and Shiprider determined the scope of what was legally and financially achievable. Second, at the lower level of human resourcing, there is a clear relationship between US and Canadian personnel that obtains through the dynamics of informality and technical capabilities – the *how* they do

their job individually and collaboratively. There is informal knowledge transfer that happens in collaboration, and informality facilitates that knowledge transfer. Between levels, further relationships are evident: levels of technical training, for example, are partly a function of financial resources made available at the higher level, while informality remains delimited by legal constraints. Understanding and unpacking the full extent of such interlinkages is beyond the limits of this article's aims, but what they do reveal is that the Marsh & Rhodes' depiction of network collaboration applies – and can be extended – to the transgovernmental relationship explored here. In the next section, we reflect on this contribution to transgovernmentalism literature.

Continuity and contingency in transgovernmental collaboration

This case study reveals how the cross-border economy in smuggling has stimulated new modes of transgovernmental activity between the US and Canadian border agencies. This activity conforms to, and stretches, extant transgovernmental concepts: (1) speed of initiation; (2) formality; (3) institutionalising relationships; and (4) the sovereignty dilemma.

First, our cases of both IBET/Shiprider and MYGALE confirm the widely held view that domestic agencies pursue transgovernmental informality as a rapid, informal and flexible mode of governance (Eberlein & Newman, 2008; Slaughter, 2009) and are populated only by states directly affected by the phenomenon at hand. By contrast, in the case of transgovernmental formality, such as the emerging Five Eyes Law Enforcement Group, the actors select the problem (Legrand, 2015; 2021). Our two cases here demonstrate how this informality unfolds: through the use of informal, non-binding Memorandums of Understanding to negotiate past the traditional, constraining structures of inter-governmental collaboration such as and Mutual Legal Assistance Treaties and initiate on-the-ground collaboration rapidly.

Second, and relatedly, while both networks stemmed from and were often sustained by initial informal relations, they sought opportunities to institutionalize the relationship. Both IBET and Shiprider were established 'bottom-up' initially: ideas were generated locally and subsequently percolated nationally before both were ultimately institutionalized at the federal level. Participants discussed the importance of the formal, institutionalized IBET meetings as a medium to ground informal relations. Participants in MYGALE are in discussions over how to create a new legal framework to formalize their taskforce. This focus on institutionalization is perhaps due to the fact that informal networks often come with a set of formal legal restraints. Yet, notwithstanding the federal legislation that now governs Shiprider, individuals in the program discussed the importance of each region being able to pursue local priorities. It appears that despite the push for institutionalization, all actors involved still prioritize maintaining a local and informal approach to daily work. Whereas it makes sense for the focus of the St. Lawrence Shiprider to be contraband tobacco, in Detroit the main concern is cross-border gun trafficking.

Third, while both case studies had informal beginnings, often stemming from cross-border relations officers developed in the field, groups place a premium on *institutionalizing networks at a high level*. It appears that this structure of evolution has allowed groups to maintain the ability to tailor priorities locally whilst reaping the benefits of

federal support and legitimation. The informal nature of enforcement networks reflects findings in the literature on epistemic communities where ‘substantial research on policy networks in the comparative politics literature has long demonstrated the importance of personal relationships, shared values, and a sense of community’ (Cross, 2012). Relatedly, while having a party in power that prioritizes border security is beneficial to the expansion of policy networks it appears that this is not directly correlated with specific political parties. Rather, the networks seem to benefit from political parties that are sympathetic to border security or that are motivated to act (see Table 1). Although the idea of IBET has been around since 1996, the program was not expanded until 2001. Post-9/11 actions to bolster IBET and Shiprider were taken on both sides of the border with equal gusto among Democrats, Republicans (in the U.S.), Conservatives and Liberals (in Canada). While one might presume that Canadian security measures would fare better with Republican partners, the focus of enforcement networks means that political climate matters *less* than exogenous pressures. For instance, 9/11 can be seen as a turning point across regulation of the Canadian/US border. A number of large border initiatives were passed post-9/11 under a Liberal government, and ‘Beyond the Border’, which is arguably the most important piece of legislation to this end, was passed under a Democratic presidential administration. Political differences are diminished when there is widespread public pressure to act, as was the case with 9/11 or with rise of contraband tobacco.

Table 1. Evolution of cross-border enforcement networks.

Evolution of IBET/Shiprider	Evolution of MYGALE Taskforce
1996 WA/BC IBET Pilot (Integrated Border Enforcement, 2015) Cross Border Crime Forum discusses IBET (1997) (Canada and US Strengthen, 2004)	NA
9/11 occurs 2001 Smart Border Declaration expands IBETs(US-Canada Smart Border, 2016) 2002: Now four IBET locations (Canada’s Integrated Border)	ACCES Tabac formed as a partnership between Quebec provincial agencies, Sûreté du Québec, municipal police and the national agencies of CBSA and the CRA. (Actions to Reduce, 2011)
2003: Announce intentions to expand IBET into marine enforcement (Watson, 2009) 2005: First Shiprider Pilot – return for more training and longer pilot(Ibid)	
2006: Second Pilot (Ibid)	NA
2007: Shiprider engrained in Security and Prosperity Partnership (Ibid) 2007: First training program in South Carolina Two-month pilot leads to seizures of over one million cigarettes, \$38,000, 6 direct arrests and contributed to 41 additional arrests. (Ibid)	
2009: Shiprider Framework signed (Framework Agreement, 2009) <i>Period of limbo where Shiprider was only for high level security events as it awaited implementation of above legislation</i> 2011: Beyond the Border signed- increased funding (Beyond the Border, 2011)	2010: First investigation to use a taskforce ^a 2014: Operation LYCOSE (Police Arrest 28, 2014) 2016: Operation MYGALE (Lau, 2016)

^aInformation from interview with high-level SQ Officer.

Finally, these cases reveal a novel resolution to the long-standing sovereignty dilemma of how states can resolve challenges that exist beyond their border. Our cases here reveal that mutual training and mutual empowerment are important drivers of innovation for operationally oriented cross-border networks. For example, while MYGALE is able to skirt the inconsistency in skills in everyday operations by intentionally leveraging each agency's comparative advantage, training was crucial for cross-designated officers of Shiprider and the MYGALE taskforce. This had further operational advantages: even when officers were not working side-by-side, as in the case of MYGALE, training was crucial to foster an understanding of the enforcement culture of the partner country. Not only did training increase interoperability, it also appears to strengthen understanding between partners. While many participants in our interviews displayed frustration at political processes in the other country that were different or took longer, this frustration was never projected as blame on partners. We found that technical constraints, and thus the need for skills training, differed depending on the nature of the network. However, it appears that even in situations where technical training may be unnecessary, education on laws, regulations and procedures in the other country can boost the potential for collaboration.

Transgovernmentalism, sovereignty and illicit political economy

Illicit cross-border economies stimulate states to innovate new means to preserve sovereignty. While the traditional, Westphalian, perspective of borders and jurisdiction is steadily withering against the assault of modern transnational crime, governmental agencies are forging ahead to create their own idiosyncratic cross-border arrangements, borne of necessity and urgency as transgovernmental enforcement networks (TGENs). Several implications follow from this case.

Foremost, the evolving transgovernmentalism uncovered in our cases highlights the new administrative spaces created and occupied by TGENs. The extant literature on transgovernmental cooperation recognises the regulatory advantages of a cooperation fuelled by trust, mutual advantage and goodwill (e.g. Slaughter, 2009), but how and where such relationships manifest at an operational level remains to be fully understood and articulated. Here, our empirical cases have revealed two modes of collaboration within these new administrative spaces, and draw particular attention to the advantages accrued by agencies that use their discretion to pursue informal modes of cross-border collaboration.

TGENs conform to the characteristics of TGNs in many respects. They are established between cross-border peers of national agencies, independently of diplomacy channels, to address a shared policy or regulatory problem. They do so as informal (initially) collaborators, eschewing legal or treaty obligations in favour of 'soft' MOUs. They accord with the general trend of TGNs that, in Eilstrup-Sangiovanni's (2016, p. 131) words, are 'fast, flexible and cheap'. In operating thus, domestic agencies mimic illicit economies. Just as illicit economies flourish absent the constraints of state regulation – viz. taxation or proscription – enforcement TGNs shrug off formal international treaties or agreements to achieve a level of operational flexibility that permits greater capacity to interdict illicit cross-border activities by exchanging information and collaborating outside formally-sanctioned channels. For Cozine *et al*, the informal mode of operation confers

clear benefits: 'Informal interaction gives network members the ability to skirt formal bureaucratic barriers and exchange reliable information and coordinate activities rapidly' (Cozine, Joyal, & Ors, 2014, p. 130).

This is not risk-free. We know organized criminal entities decrease their own risk by operating transnationally with a lower risk of detection (because enforcement agencies only see a small slice of activity which may appear perfectly legal within that remit), and the ability to exploit asymmetries across borders. The *opposite* has traditionally been true for law enforcement: working internationally increases risk – by having to cooperate with peers operating with different priorities or powers; accountability for an adequate return on investment; and the possible complicity by 'partners' with organized crime. From this perspective, we find the maturing of transnational enforcement networks to mitigate such risks indicates both the role illicit economies have in stimulating new enforcement arrangements and, further, the transformation of sovereignty. Transgovernmental enforcement networks have responded not by diminishing the state but rather by pursuing an additive approach, which instead sees the sovereign capacities of governmental agencies mutually empowered by a collaborative philosophy: we expand on this below.

TGENs are distinct from TGNs insofar as they proceed with an emphasis on commensurate technical-operational and legal capabilities. Though without the constraints of treaties, TGENs remain bound by criminal legal procedures. Unlike policy collaborations, where national actors have considerable scope to amend their policy frameworks to facilitate cross-border collaboration, TGENs must adhere to domestic legal strictures if prosecutions are to have a chance of success. In this respect, enforcement officials are constrained by the authorities and expectations of both their own legal system and those of their collaborator(s). Overcoming this dilemma, in the cases explored here, produces a defining feature of TGENs: the empowerment of foreign officials to conduct and execute operations in the jurisdiction of their partner country. This unique arrangement indicates how the additive approach to sovereignty works in practice.

Relatedly, while much of the literature on transnational cooperation stresses the importance of expanding beyond the nation-state model, for the purpose of deterring, disrupting, and prosecuting serious and organized crime, traditional borders remain germane (Varró, 2016). Smuggling is, at its essence, a manipulation of borders to exploit differences in rates of taxation and, therefore, thus tied to the traditional model of the Westphalian state. The empirical research reported here reveals that despite close cooperation, members of the TGEN continue to define themselves in terms of their country, not in transnational terms. This is similar to Varró's (2016) findings in a study of cooperation along the Dutch-Belgian-German Border: participants still mentioned cultural differences and noted that their tasks were defined by national agendas. It follows that members of enforcement networks maintain a primary attachment to their government and country. Varró (2016) also found that good working relations and informal connections between members of a network could strengthen network cooperation and trust, which compares favourably with the findings in this article.

These findings have overarching consequences for the fields of policy networks and transnationalism as a whole. Work on transgovernmental networks operates as a starting point, but does not adequately capture all the nuances of enforcement networks in our case studies. There are important differences, which suggest that *transgovernmental enforcement* networks should be investigated independently. Major differences include

the dependence of enforcement networks on governments to overcome financial and legal constraints. Additionally, enforcement networks are less concerned with influencing policy and more with the improving the effective implementation and enforcement of security policy.

Conclusion

Shiprider and MYGALE offer a powerful series of insights into the evolution of transgovernmental enforcement networks, US-Canadian cooperation and illicit international political economy. Here it is apparent that five key factors underpin enforcement networks and found three of them to have an impact on the success of our case studies. The first two conclusions we derived from our study of US-Canadian networks can also be generalized for the broader field of policy networks, while the third is specific to enforcement networks. Timing and political imperative matter. Policy networks, especially those that depend on legislation to enable their day-to-day work, have a narrow window of opportunity to materialize. When an issue is ‘hot’, as was border security immediately following 9/11, there appears to be more political support, willingness to push through legislation and allocate resources. While tobacco smuggling has yet to have its ‘hot’ moment, enforcement benefited from border initiatives in the 2000s. Despite common assumptions about having a political party in power that is predisposed to border security affects political support, IBET and Shiprider benefited from similar political support by both parties due to external pressure to act on border policy. Relatedly, success is a function of the formality of relations underlying the networks. IBET/Shiprider and MYGALE had informal beginnings. They are organic extensions of pre-existing informal cooperation.

Both the identification of TGENs across the US-Canada border and the illicit transnational economy they target have important implications for IPE scholars and beyond. In the first instance, our article underlines the need to uncover and theorise illicit global economic activities. With the ongoing challenges posed by cross-border criminal issues, including those discussed above but also violent extremism, money-laundering, drugs, people trafficking, and much more, the imperative of research into illicit political economies is steadily increasing. The modern technologies involved in travel, goods production, and communication have compressed time and space, transforming how illicit economies operate, and creating new markets too, in the process of globalisation. As Dillman, 2007, p. 124) argues: ‘Globalization has given urgency to the need to establish more interdisciplinary approaches to the illicit world’.

Second, these illicit economies prompt transformation in state autonomy, and their capacity to enforce the borders. As Passas’ depiction ‘criminogenic asymmetries’ reveals, illicit economies augur future instability within and amongst states by exploiting the regulatory and enforcement gaps that have opened up between borders and in the high seas. Indeed, the uptick of international terrorism since 2001 has sharpened the attention of security officials to the transnational intersections of narcotics, money-laundering, terrorism financing, cyber crime and black markets (e.g. Warde, 2007) and the insecurities that result in developing and developed regions of the world. A focus on how instabilities manifest out of illicit global economies, and the means by which states mobilise alternative multilateral policy responses, can do much to contribute to ‘the broader effort to make IR more relevant to pressing “real world” problems and policy discussions’ (Andreas, 2015, p. 787).

Finally, one of the responses by states – conceptualised here as TGENs – shows how states understand the limitations in this space, and what they can do about it. The emergence of TGENs (such as IBET and Shiprider) is evidence that states are ready to find new modes of working to achieve their policy goals: by adopting informal, ad hoc and negotiated collaborative working practices with their neighbouring states, collaborative transnational policing of the illicit economy is not just possible but effective too.

Limitations and future research

As with all empirical research, the contribution made by this article comes with caveats. Not only do we not wish to overstate our case, but more importantly we render the article's limits and limitations these explicit in the hope that subsequent researchers not only have a clearer sense of what has been done, but what future research questions need answering.

The most prominent limitation is that of the TGEN concept itself, and whether it is generalisable. We propose TGENs as a new conceptual framing of cross-border relationships, yet whether comparable arrangements are likely to appear elsewhere is a matter of empirical investigation. *Prima facie*, those of the European Union seem likely contenders, though academic case analysis does not exist to give us ideal comparison. We hope this changes. The next limitation is that of cross-border enforcement between countries with political *antagonisms*: those of Iran-Iraq; Israel-Jordan; Russia-Estonia, and so on. We have suggested above that in cooperative relationships TGENs produce a bilateral benefit, but where historic frictions exist at the border it is not immediately clear whether such arrangements either exist and, if they do, whether similar benefits accrue. Third, we do not know how durable TGENs are. Determining whether TGENs remain as the default option for cross-border policing is a question to return to in several years, as we or our colleagues surely will. These are conceptual and empirical limitations, to be sure, but given the growing research activity in this area, we are optimistic that these will not remain limitations for much longer.

Disclosure statement

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Notes on contributors

Tim Legrand is Associate Professor of International Security in the Department of Politics and International Relations at the University of Adelaide. Tim's interdisciplinary research concerns transgovernmental networks, policy transfer and security politics. His most recent monograph, *The Architecture of Policy Transfer: Ideas, Institutions and Networks in Transnational Policymaking* (2021), is published by Palgrave Macmillan.

Christian Leuprecht is Class of 1965 Professor in Leadership, Department of Political Science and Economics, Royal Military College of Canada, and Editor-in-Chief, *Canadian Military Journal*; Director, Institute of Intergovernmental Relations, School of Policy Studies, Queen's University; and Adjunct Research Professor, Australian Graduate School of Policing and Security, Charles Sturt University. He is an elected fellow of the College of News Scholars of the Royal Society of Canada and a recipient of RMC's Cowan Prize for Excellence in Research. His recent monograph, *Intelligence as Democratic Statecraft* (2021), is published by Oxford University Press.

ORCID

Tim Legrand  <http://orcid.org/0000-0002-5205-5914>

Christian Leuprecht  <http://orcid.org/0000-0001-9498-4749>

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