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**U.S.-CANADIAN BORDER SECURITY: LESSONS
LEARNED FROM DENMARK'S EXPERIENCE WITH
THE SCHENGEN CONVENTION**

by

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DENMARK'S EXPERIENCE WITH THE SCHENGEN CONVENTION**

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LIST OF ACRONYMS AND ABBREVIATIONS

CBP	U.S. Customs and Border Protection
CBSA	Canada Border Services Agency
CIA	Central Intelligence Agency
COP	common operating picture
CSIS	Canadian Security Intelligence Service
DoD	Department of Defense
DHS	Department of Homeland Security
DNI	Director of National Intelligence
DV	Danish People's Party
EC	European Council
ECU	European Currency Unit
EU	European Union
EUC	European Union Council
FAST	Free and Secure Trade Program
FBI	Federal Bureau of Investigation
GAO	Government Accounting Office
GDP	gross domestic product
GHB	gamma-hydroxybutyrate
INS	Immigration Naturalization Service
IBET	Integrated Border Enforcement Team
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
NORAD	North American Aerospace Defense Command
PSC	Public Safety Canada
RCMP	Royal Canadian Mounted Police
RPM	radiation portal monitors
SC	Schengen Convention
SIS	Schengen Information System
UAV	unmanned aerial vehicle
UN	United Nations

USA PATRIOT Act Uniting and Strengthening America by Providing Appropriate
Tools Required to Intercept and Obstruct Terrorism

USSR Union of Soviet Socialist Republics

WHTI Western Hemisphere Travel Initiative

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I. INTRODUCTION

A. MAJOR RESEARCH QUESTION

The U.S.-Mexican border is half the size of the U.S.-Canadian border, but the resources committed to the south far exceed those dedicated to the north. Person and drug smuggling is the most significant reason for additional resources dedicated to the southern border. The southern border accounts for 70 percent to 90 percent of illegal substances entering the United States.¹ In contrast, the northern border has never had the same number of border agents. The reasons for this disparity include a similar colonial origin and the strong and long-standing partnership between the United States and Canada as well as a significant link in military defense and economic interdependence.²

Still, the U.S.-Canadian border is the subject of increasing debate and discussion. Mark Salter and Geneviève Piché describe how the view of the largely undefended northern border has changed in the last decade and is now treated as another security risk.³ Before 9/11, the border was seen as a trivial matter that did not require significant supervision. The view changed in response to terrorist attacks and increased media attention. Opposing the call for increased security is the belief that the border must also be open for commerce. The border is seen as a vital part of Canadian and U.S. economies that provides benefits to both states, and excessive controls present unnecessary obstacles to commerce between the U.S. and Canada.⁴ When examining maps of North America, like the one shown in Figure 1, it is easy to see how dominant the border is and how long the border weaves between the two states, straight in some sections and winding along rivers in others.

¹ Imtiaz Hussain, Satya R. Pattnayak, and Anil Hira. *North American Homeland Security: Back to Bilateralism?* (Westport, CT: Praeger Security International, 2008), 185.

² Elinor C. Sloan, *Security and Defence in the Terrorist Era*, 2nd ed. (Montreal: McGill-Queen's University Press, 2010), 86.

³ Mark B. Salter and Geneviève Piché, "The Securitization of the US-Canada Border in American Political Discourse," *Canadian Journal of Political Science* 44, no. 4 (December 2011), 3.

⁴ Sloan, *Security*, 86.



Figure 1. North American Continent⁵

This thesis examines two questions: 1) Are U.S.-Canadian border policies sufficient and effective in keeping the homeland secure? 2) Is there a different method to balance safety with commerce across the U.S.-Canadian border? The model to be examined is a fully open border, similar to the Schengen Convention (SC) in Europe that created an open area between the SC signatory nations. If applied to the U.S.-Canadian border, such an arrangement could permit the free flow of both goods and people.⁶

This thesis will examine Denmark's 2011 change of security requirements to comply with the SC that temporarily implemented additional border controls. The motivation for the change will be surveyed in order to understand how that nation can provide lessons for the U.S. This Danish effort provides a case study to examine the state of border security under two different conditions ranging from full compliance with a

⁵ "North America Maps," last accessed February 16, 2014, <http://site.ebrary.com/lib/nps/docDetail.action?docID=5008750>.

⁶ Ruben Zaiotti, *Cultures of Border Control: Schengen and the Evolution of European Frontiers*. (Chicago: The University of Chicago Press, 2011), 2.

multi-national security agreement (similar to the sort of U.S.-Canadian agreement that some experts recommend), to stricter border security implemented by a nation on its own (similar to tighter security measures supported by some, especially within the United States).

B. IMPORTANCE

The U.S.-Canadian border is the longest between any two countries in the world, with 5,525 miles across the continental states and Alaska combined.⁷ In addition, these countries share a unique and interdependent relationship based on historical ties and geographical proximity. The length of the border and varied topography complicate its defense from unauthorized or harmful entities. Based on the proximity of the two nations and their symbiotic relationship, damage to one may affect the other.

Policy alternatives to border management consist of strengthening and solidifying the security of the United States from threats that may be presented by disreputable agents or forces that would illegally cross the border. The other option consists of opening the border fully to authorized members of both states thereby increasing cooperation and creating a larger safety zone consisting of working teams from both involved countries—a kind of North American Schengen Convention.

Denmark aroused controversy across Europe when it decided to change how it interpreted the SC, increasing the size and strength of its border infrastructure rather than maintaining it open border across the participating nations. The change did not last very long. After four months, the Danish elected a new government, which canceled the previous government's laws.

The Denmark case is significant because it provides a natural experiment of a country that decides unilaterally to strengthen its border controls within a previously established international agreement across much of the European Union (EU) to allow people and goods to cross the borders without interference of border agencies. In this

⁷U.S. Customs and Border Protection, "How Long is the U.S. Border with Canada and Mexico?," CBP INFO Center, accessed December 24, 2013, https://help.cbp.gov/app/answers/detail/a_id/578/kw/how%20long%20is%20canada%20border.

case, the Danish fear of neighboring countries presenting internal threats resembles the United States' concern of dangers coming into its territory via its neighbors; it also provides an example of what might happen if the U.S. government strengthened its border with Canada. Denmark is the first nation in the SC to attempt to permanently increase internal border controls.

There are many border vulnerabilities that a criminal can exploit for multiple gains. A government must keep the population safe and not solely by erecting a wall or posting a guard. The issues that affect the U.S. and Canadian relationship are far too complex to be handled with simple solutions; however, if a Schengen-like agreement will increase safety and the economic conditions for both nations, the countries may be better served by implementing it.

C. PROBLEMS AND HYPOTHESES

The thesis will examine the border enforcement and cooperation policies between the U.S. and Canada while exploring the strengths and weaknesses that the current interactions present. The thesis will then describe the way Denmark has handled its own external national security inside the EU. By reviewing what drove Denmark to join the SC and then change how it was applied in 2011, it is possible to see what changed and what can be learned from the events of 2011. These lessons can be applied to the U.S.-Canadian border. Both examples of national diplomacy—Denmark and the EU, and U.S.-Canada—deal with allies and friendly neighbors. The actions of one border nation will affect the other and how these nations see their role in self-defense are critical in understanding the relationship and applying the Denmark case to the U.S.

The size and complexity of the border present a significant challenge and any tools that serve to better enhance the security of the neighboring countries can be seen as beneficial. The U.S.-Canada relationship and Denmark and its neighbors may have some differences in key traits and these variances may render any conclusion inapplicable to the other group if not acknowledged and expanded upon.

Another critique of the SC, which could directly apply to the U.S.-Canadian border, is the limitation to geography. There is a concern that the Schengen area could

become too large for the consolidated security forces to be able to adequately protect the affected area, this in turn would allow a greater threat to be able to permeate the rest of the zone due to the nation that was overcome.⁸

Europe's legacy of warfare and violence, not present at the same scale in North America, complicated the negotiation of the SC. The lack of such a complex and conflicted legacy may make the process of creating a cooperative border system simpler for the U.S. and Canada. A significant factor for the United States is concern of another terrorist attack and the resolute stance to prevent one. This factor weighs into all border relations and must be properly acknowledged to validate any future policy changes.

The SC model will not directly transfer over to the United States and Canada; however, some of the features can. One of the most significant features of the convention is the methods used to combine law enforcement across the various nations.⁹ Crimes are able to be investigated across the Schengen area with all of the resources and information being shared. These issues from the Schengen area can be dealt with in a U.S.-Canadian region in the same manner.

D. LITERATURE REVIEW

Authors from both sides of the U.S.-Canadian border have varied views of the importance of the border and the best way to deal with the other country. Two historical events have shaped these assessments. The first is the North American Free Trade Agreement (NAFTA) that went into effect January 1, 1994, binding the North American continent with similar economic interests and pursuits.¹⁰ NAFTA does not deal with security and laws in the same way and after 9/11 many issues were brought up. The

⁸ Zaiotti, *Cultures*, 228.

⁹ Anna Pratt, *Securing Borders: Detention and Deportation in Canada* (Vancouver: UBC Press, 2005), 5.

¹⁰ Jordi Díez, *Canadian and Mexican Security in the New North America: Challenges and Prospects* (Montreal: McGill-Queen's University Press, 2006), 3.

legacy of NAFTA shows an ability to work across the border in order to achieve a better financial agreement. The next step could be a much more porous and open border.¹¹

The second major impact on U.S. and Canadian relations is the events of 9/11 and is a necessary factor for any security debate. The debate shifts to the nature and location of response. Generally, international terrorism was accepted as a significant threat not to be underestimated. For some authors, the responses and actions already taken—such as the USA PATRIOT Act, an acronym for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, which increased border enforcement and introduced immigration reform—are necessary to protect the U.S. from terrorism and other threats. Michael LeMay highlights that the USA PATRIOT Act critics do not believe the government should have as much power because abuses are possible.¹²

The United States established the Department of Homeland Defense (DHS) to solve the issue of numerous agencies having limited interactions and redundant missions.¹³ However, terrorism was not seen universally as the largest threat affecting North America. Some authors state the likelihood of attack by a terrorist is lower than purported.¹⁴ The threat level was used to justify increased security across the nation despite hard evidence of threats.

The threat of terrorism has caused others to call for the border to be further strengthened and protected. Quoting a report from the U.S. Government Accounting Office (GAO), several U.S. senators called for a higher level of security and attention on the northern U.S. border. There was a belief the threat level from potential terrorist attacks was very high and not enough consideration was being placed on the inadequacies

¹¹ Daniel Drache, *Borders Matter: Homeland Security and the Search for North America* (Halifax: Fernwood Publishing, 2004), 81.

¹² Micahel LeMay, *Guarding the Gates: Immigration and National Security* (Westport, CT: Praeger Security International, 2006), 262.

¹³ *Ibid.*, 1.

¹⁴ *Ibid.*, 254.

of protection.¹⁵ According to the report, only 32 miles of the more than 4000 miles were adequately guarded and secure. Fear of terrorist groups and weapons being smuggled across the rest of the border has fueled the debate over safety on the northern border.¹⁶

Contrary to the widely held beliefs in continued border control and increased security, other authors believed that the United States was in a constant state of oscillation between high levels of border security and unilateralism, and open politics with a willingness to cooperate.¹⁷ The fundamental debate consists of those that would increase the border, and those that want to open the border.

1. Denmark and the Schengen Convention

The situation in Europe is different, beginning with the number of countries involved and the shared histories. An examination of every nation is beyond the scope of this thesis. For that reason, Denmark was chosen because it was the only nation to change the interpretation of SC and can be compared to higher and lower levels of border security policy.

The research showed significant cooperation in border security and crime enforcement throughout the area encompassed by the SC, fittingly called the Schengen Area. The area has been extensively researched and each country has its own priorities and concerns. The inner borders are considered open and allows for unhindered passage throughout the area, while the outer borders are protected like any other nation's border and checks are required to enter. In June 2005, over a decade after Denmark had joined, a new organization, Frontex, was created and tasked with coordinating external border

15 Canadian Broadcasting Corporation, "Canada-US Border Security 'Unacceptably Ineffective': Report," last modified February 2, 2011, <http://www.cbc.ca/news/politics/canada-u-s-border-security-unacceptably-ineffective-report-1.1026095>.

16 Rob Hotakainen, "Biggest Border Threat to US," *McClatchy Newspapers*, February 1, 2011, <http://www.mcclatchyde.com/2011/02/01/v-print/107891/biggest-border-threat-to-us-canada.html>.

17 LeMay, *Guarding Gates*, 267.

issues for all SC nations.¹⁸ This agency was crucial in defending the Schengen area from external threats and keeping the inner areas protected. A group could be created in the U.S and Canada to perform a similar function.

2. Critics of the Denmark Argument

Many opponents of Denmark's policy change countered the given reasons for increased border protection. Many authors are critical of any unilateral move away from the Schengen Convention and believe that the best protections come from teamwork and shared diligence against crime and foreign threats.

Ruben Zaiotti described the SC as a step up from the Westphalian system of nations and borders. He uses the term evolution to imply that the Schengen convention is an improvement due to the international cooperation of the SC across Europe. The system is not perfect. There are several key issues that have been discussed with the SC. One of the most pressing issues is the nature of the leadership for the convention.¹⁹ To apply to the U.S.-Canadian relationship, a neutral partnership of equality would have to be built in.

3. Applying the Lessons to the U.S.-Canadian Relationship

The writings that have examined the U.S.-Canadian border consistently describe the U.S. as the primary force that drives the direction and focus for future relations. The fact that the two countries are not on equal, financially or population wise, is a serious issue for political negotiations and bargaining priorities.²⁰ The numbers will likely never balance out, but the need to have both parties protected and equitably handled will be a significant issue to ensure any future agreement is successful. Even though the United States has a larger gross domestic product (GDP), the other nations being dealt with will not acquiesce to a completely discriminatory or unacceptable term; the smaller nations

¹⁸ Zaiotti, *Cultures*, 167.

¹⁹ *Ibid.*, 227.

²⁰ Robert A. Pastor, *Toward a North American Community: Lessons from the Old World*, (Washington DC: Institute for International Economics, 2001), 34.

will still strive to be recognized as a peer and preserve its own objectives.²¹ The sovereignty of the other nations, as in Europe, must still be respected and recognized for any long lasting settlement. The basis for the Schengen Convention is that all of the nations have a say and are part of the larger group, rather than weaker states becoming subjugated to other nations.

One particular issue for North America is the large difference of incomes and the method for dispensing welfare or any similar support for the less fortunate.²² This issue weighs into any discussion for open borders between two nations. Significant disparity between the nations can create significant points of contention that could further unravel or destroy any agreements.

Another consistency throughout the literature of North America is the nature of the governments toward immigrations. Both Canada and the U.S. are nations of immigrants, neither one will end pursuit for a better life for one's children, but the need to protect the nation's children with security is equally balanced in the leadership's minds. Canada is increasing the level of scrutiny applied to incoming immigrants; however there is a debate about the training thoroughness given to the gatekeepers. Author Arne Kislenko states that too many people are screened by too few with limited training allowing for holes in the proverbial net.²³

E. METHODS AND SOURCES

The thesis will examine the evidence that was used to support the change of the Danish government for border policy and apply the lessons learned to the United States; to improve security from external threats; whether they are real or exaggerated is another issue all together. To best understand the various views of border policy, the proposed

²¹ Ibid., 99.

²² Drache, *Borders Matter*, 58.

²³ Arne Kislenko, *The Oxford Handbook of National Security Intelligence* (Oxford: Oxford University Press, 2012), 318.

thesis will seek to understand the Danish government's motivation for various levels of border protection or openness at different times. The same analysis will be performed on the U.S. and Canadian policies for border security.

A learning lesson will be the 2011 events in Denmark when the country, for separate political reasons, tried to change the level of security required under the Schengen agreement and increase border protections. By examining the increased border security it is possible to determine if the change resulted in a safer nation. The thesis will look at Denmark's acceptance of the convention, how it interpreted it and why there was a change in compliance with the rules. Lessons will then be applied to the North American situation to demonstrate how to improve the security and economic scenario for both nations.

Newspaper articles published during the 2011 situation show a preponderance of pessimism over the legality of the change Denmark suggested. The newspapers show what the media believed regarding the support and dissent for the open borders present in Denmark. The coverage illustrates an uphill battle from the beginning for the Danish government in selling the case to the rest of the people and the other nations.

F. THESIS OVERVIEW

The introduction introduces the overall subjects and issues that will be dealt with. Following this introduction, Chapter II examines the threats on the border and steps currently being taken to mitigate them and safeguard the two nations.

Chapter III will look into the policies of the U.S. and Canada borders from early stages through the modern era in order to understand what motives and changes have taken place over time between the two nations.

Chapter IV will look into the Schengen Convention. In order to understand the complexities of the Denmark border, the SC will be described and the program will be broken down by its parts and unique parts.

The next chapter will look into the Danish border situation and examine how that nation joined and later modified the SC, and what motivated the change. The cooperative

nature of the SC and Denmark is important in understanding how border changes can affect the allies of the EU. When Denmark made changes that were important to its local population, it did not consider the impact these changes would have on the larger Schengen area. The ruling Danish government lost control of the parliament before completing the planned border changes, but the possible impact to cooperation between the states was significant.

The final chapter will conclude with lessons of the events in Denmark and provide a method for applying the lessons for greater border cooperation between neighbors. The concluding chapter will review the thesis and demonstrate the possibility of applying the SC to North America.

The thesis examines threats responses present at the U.S.-Canadian border. The DHS coordinates with representatives from law enforcement, military and civilian entities. Threats include weapons, drug dealing entities and terrorist groups. All of the challenges must be met to protect the border. Prior to the attack of 9/11, the U.S.-Canadian border was similar to the Schengen Convention. The cooperation between the two nations remains today. The military presence on the soil of the two states has increased and the collaboration between the various groups that strive to protect the border remains high.

Europe instituted the Schengen Convention to have open borders between participating nations. It allows for goods and people to travel between the participating areas. In 2011, Denmark increased border security for its internal borders despite having other SC nations surrounding it on all sides. The lessons of Denmark are levels of authority and the impact that small changes on one scale of politics can have on the other larger areas. It is important for governments to consider the impacts on multiple scales in a global arena and balance the interests of the local populations with the significant needs of the partner nations. The U.S. and Canada can benefit from balancing the interests of some members of the population, those that would prefer significant reduction in international arrangements, and the high commercial value that properly execute alliances

outside of the country can deliver. In addition, by returning to an open border and creating a larger protective zone around the two nations; it is possible to push the threat as far from the mainland as possible.

II. BORDER THREATS AND DEFENSE

The two aspects of a border that determine its shape and function are the threats that are present as well as the capabilities of the nations that are utilizing the forces available. This chapter will look at the types of forces utilized on the U.S.-Canadian border as well as the technology that the border agencies utilize for enforcing the border and border rules. The second section of the chapter will look into the general threats that are present on the border and what measures may be used against them.

A. CURRENT U.S. BORDER SECURITY

A nation's border defines both its geographical and defensive zones. A nation's territory plays a part in the creation of the state identity and there is significant literature discussing the importance of the border in forming it. The state's border is also a marker for resource rights and ownership.²⁴ Disputes between the borderlines of states have been the cause of wars since the inception of the border and remain the source of conflict today. The neighbors serve an important role in helping define the border as well. A nation's border shows the international community and citizenry where states begin and end. The state must adequately secure and guard its border to ensure internal security. Layered responses and technologies protect the border. The U.S. customs and border patrol (CBP) is the primary agency inside of DHS responsible for the border. There are eight sections spread across the 15 northern U.S. border states.²⁵

This chapter will examine the various methods of defense, the entities that want to exploit weaknesses in the security systems and the specific strengths that are currently present in the border. The thesis will look at the U.S.-Canadian border and breakdown the security into three categories: hardware, people, and programs.

²⁴ Étienne Balibar, *The People of Europe? Reflections on Transnational Citizenship*, trans. James Swenson (Princeton: Princeton University Press, 2004), 7.

²⁵ U.S. Department of Homeland Security, *US Customs and Border Protection Report to Congress on Ongoing DHS Initiatives to Improve Security along the US Northern Border*, 2008, <https://www.hsdl.org/?view&did=483993>.

1. Hardware and Technology

The initial examination of border security procedures for the thesis begins with physical devices and tools. The agencies guarding the border select technology based on years of trial and error. Governments must improve technology as it improves, so does the tools of both the guards and those trying to circumvent the system. The guards keep watch for threats and contraband, and the groups that want to avoid detection keep attempting to foil the technology. New technology must be fully countered or loopholes and liabilities will be exploited in the defensive systems.

There are 1459 radiation portal monitors (RPM) placed along the ports and entry points across the border of U.S.²⁶ There are 444 RPM placed at the ports that scan 99 percent of all cargo containers and the rest are along the land border are able to fully scan 100 percent of the vehicular traffic that enters the U.S.²⁷ The RPM is a tool that assists the border guards with nuclear material defense.

Towers with infrared and visible light cameras provide a lookout for areas in conjunction with radar, magnetic, and seismographic sensors continuously tracking a given sector and reporting any findings to nearby personnel to create a network across the border.²⁸ There was also utilization of unmanned aerial vehicles (UAVs) to provide mobile detection and roving manned patrols. All of these systems would combine into a common operating picture (COP) in order to see the overall picture and ensure border security. Each type of sensors looks for specific targets, with foot traffic creating one type of signature and vehicles another.

²⁶ U.S. Customs and Border Protection Department of Homeland Security before the Homeland Security Subcommittee on Border and Maritime Security (February 26, 2012) (statement of Michael J. Fisher), <http://docs.house.gov/meetings/HM/HM11/20130226/100300/HHRG-113-HM11-Wstate-FisherM-20130226.pdf>, 3.

²⁷ U.S. Department of Security [DHS], *US Customs and Border Protection's Radiation Portal Monitors at Seaports* (OIG-13-26), January 2013, http://www.oig.dhs.gov/assets/Mgmt/2013/OIG_13-26_Jan13.pdf, 3.

²⁸ Government Accounting Office, *Secure Border Initiative, DHS Needs to Reconsider Its Proposed Investment in Key Technology Program*, May 2010, <http://www.gao.gov/new.items/d10340.pdf>.

2. Programs

Prior to 9/11, the U.S. and Canada were working together to secure the border from criminal groups. Post 9/11, with terrorism becoming a larger concern, the newly created DHS took over the 1998 border plans fittingly called America's Shield Initiative (ASI) and 1997's Integrated Surveillance Intelligence System (ISIS).²⁹ DHS inherited all of the program's technology and resources and strive to secure against many possible threats. The Secure Border Initiative Network (SBInet) replaced the ASI program to secure the border with technology and personnel optimized over vast distances and limited budgets.

The Secretary of Homeland Security, Janet Napolitano, canceled SBInet January 2011 due to excessive cost and not believing the program meets requirements for a safe border.³⁰ After the cancelation, the Integrated Fixed Towers (IFT) replaced it with a similar technological plan for towers on the border maintaining vigilance against intrusion.³¹ While the universal plan of one system for the entire border may be finished, many of the lessons and objectives will be carried over into new programs. Despite the failure of the program, the objective and the technology remain viable solutions to the dilemmas at the border.

Figure 2 demonstrates the expected interactions of the various systems that would communicate in the SBInet system and illustrates much of the same technology without the title SBInet. One of the newest technologies brought to the border is the UAV, with

²⁹ U.S. Department of Homeland Security, *A Review of Remote Surveillance Technology Along U.S. Land Border*, accessed November 1, 2013, http://www.oig.dhs.gov/assets/Mgmt/OIG_06-15_Dec05.pdf, 1,

³⁰ Alice Lipowicz, New border strategy to incorporate SBInet-like capabilities, March 18, 2011, <http://gcn.com/articles/2011/03/15/dhs-buying-sbinetlike-system-for-border-despite-uncertainties-gao-says.aspx>.

³¹ Reed Abrahamson, "The Fall of SBInet, The Rise of Integrated Fixed Towers," *Georgetown Immigration Law Journal*, no. 25, (Spring 2011), 746.

aircraft being deployed on both the northern and southern U.S. borders. As of 2012 the U.S. Congress has authorized CPB to operate 24 Predator MQ-9 UAVs but 10 are fully funded.³²

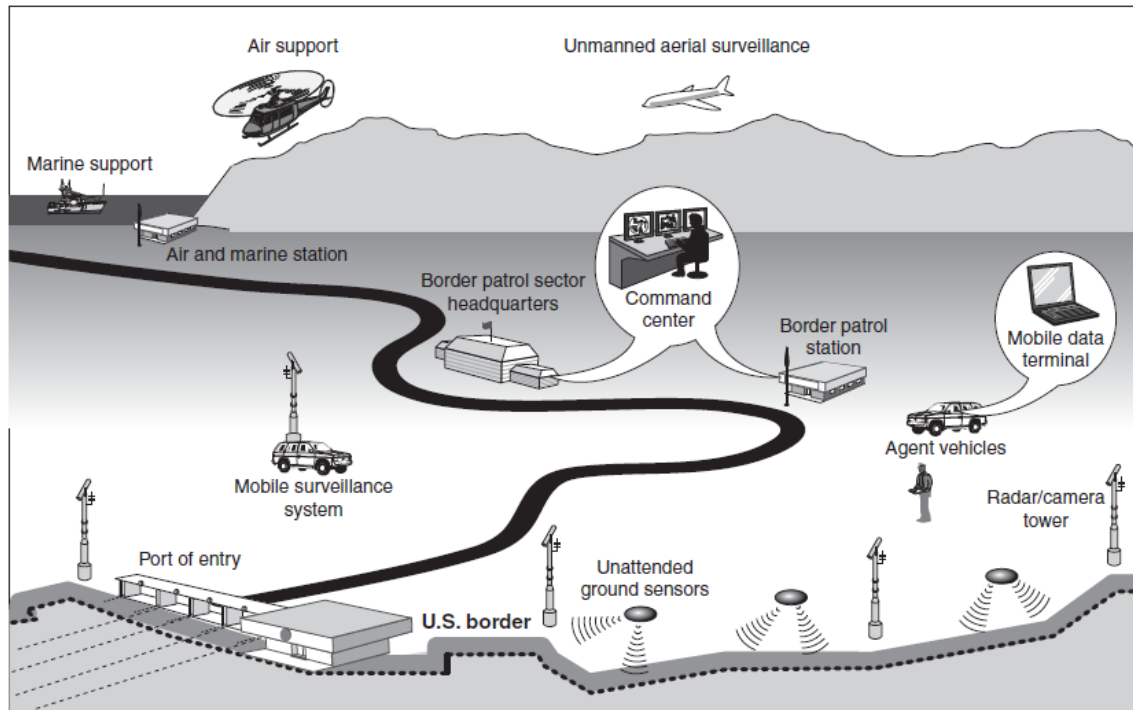


Figure 2. SBI³³

3. Personnel

The current U.S. border patrol traces its roots to a program that started in 1924 with the Labor Appropriation Act. Afterwards, border patrol became the agency responsible for securing the border between the inspection stations; the following year the

³² Dan Parsons, “Predators Allow Border Agencies to Reallocate Resources,” *National Defense Magazine*, January 2014, <http://www.nationaldefensemagazine.org/archive/2014/January/Pages/PredatorsAllowBorderAgenciestoReallocateResources.aspx>.

³³ Government Accounting Office, *Secure Border Initiative, DHS Needs to Reconsider Its Proposed Investment in Key Technology Program*, May 2010, <http://www.gao.gov/new.items/d10340.pdf>, 4.

mission was expanded to include the coastline.³⁴ Each border had a primary control center, the northern border hub was located in Detroit, Michigan; and southern border was ran El Paso, Texas.

Until 1940, the authority for this program fell under the Department of Labor; however, the threat of a coming war in Europe forced the Department of Justice to take over the nation's security. In 1952, legal changes granted additional authority to border agents and allowed them to enter a vessel to search for suspected illegal aliens anywhere inside the U.S.³⁵ Further modifications followed large threats to the nation including hijacked aircraft, drugs and the current fear of terrorism.

The managers and guards on the border make up one of the most important parts of an immigration and border security system. The border is only as secure as the personnel who are available to enforce the security and provide for the response to attempted incursions. The northern border does not have the same numbers of enforcement officers as the southern one, but each has increased its numbers since 9/11. The 2012 border patrol numbers show the significant disparity between the south and north, with 2,206 stationed to the north and 18,516 on the southern border.³⁶ A greater number of agents on the southern border have yielded a significantly higher amount of arrests, with 4,210 people taken from the northern border and 356,873 apprehended on the southern border.³⁷ The number of apprehensions does not take away the risks of terrorism, smuggling, narcotics and weapons into the country from a seemingly less protected route.

³⁴ U.S. Border Patrol, U.S. Department of Homeland Security, "Border Patrol History," January 5, 2010, http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml.

³⁵ U.S. Border Patrol, U.S. Department of Homeland Security, "Border Patrol History," January 5, 2010, http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml.

³⁶ U.S. Border Patrol, "2012 Sector Profile," accessed December 20, 2013, http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/usbp_sector_profile.ctt/usbp_sector_profile.pdf.

³⁷ Ibid.

After the events of 9/11, the newly created DHS absorbed the border patrol and combined it with other border agencies to form the U.S. Customs and Border Protection (CBP).³⁸

B. THREATS

With an understanding of the methods and resources used to protect the border, threats are other side of the equation to be examined. The specific threats will be broken down into: the terrorism threat, the types of illegal narcotics and routes used to smuggle into and out of both countries, and finally, the various weapon types possibly taken into the country from the northern border, to include nuclear, chemical, and biological.

1. Contraband between the Nations

One seemingly harmless threat from both sides of the border is illegal goods and drugs, either legal or illegal in one country or the other. In addition to the narcotics smuggled into and out of the U.S., the material is also brought into the two nations and is difficult to stop due to the inert nature of the substances. Ecstasy is a serious issue for both nations. Entities producing the drug require significant amounts of contraband chemicals. In a 2004 congressional hearing, Mark Souder stated that U.S. agencies made acquisition of the needed chemicals difficult but criminal organizations are able to get the materials in Canada and smuggle them into the U.S.³⁹ In a 2012 U.S. State Department report, the cooperation of U.S. and Canada has created further roadblocks for procurement of the chemicals.⁴⁰ An additional issue that comes from the import of illegal drugs is the profit that enables the groups to continue and increase their ventures, the more funding the groups get the more they are able to do.

³⁸ U.S. Border Patrol, "Border Patrol History."

³⁹ *Northern ICE: Stopping Methamphetamine Precursor Chemical Smuggling Across the U.S.-Canada Border Before the Subcommittee on Criminal Justice, Drug Policy and Human Resources*, 108th Cong.(2004) (statement of Mark E. Souder), <http://www.gpo.gov/fdsys/pkg/CHRG-108hhrg99654/pdf/CHRG-108hhrg99654.pdf>, 3.

⁴⁰ U.S. Department of State, *2012 International Narcotics Control Strategy Report*, vol 1, accessed January 1 2014, <http://www.state.gov/documents/organization/187109.pdf>.

The entire border has key zones that used for transporting the material back and forth. The primary drugs brought into the U.S. are ecstasy and marijuana, while the drugs that travel through the U.S. into Canada is cocaine from South America.⁴¹ British Columbia is a significant source of ecstasy and marijuana, with smaller amounts coming from Ontario and Quebec. Other drugs, including gamma-hydroxybutyrate (GHB), ketamine, and methamphetamine also go south to the U.S.⁴² Money travels the opposite direction in many instances. The health and welfare of the state’s populace is threatened by illegal drugs as well as legal products that are not inspected for safety compliance.

There are significant amounts of drugs that enter the country from the U.S./Mexican border and the amount of this contraband shows no sign of decreasing in the foreseeable future. The significant disparity between the two borders is exemplified by the amount of marijuana that was intercepted in 2012 according to the CBP in Table 1. The table shows that there are contraband shipments crossing the border into the U.S. from Canada and, while smaller, still present a risk that requires a defensive response.

Apprehension/Seizure Type	Coastal Border Sectors	Northern Border Sectors	Southwest Border Sectors	Nationwide Total
Marijuana (pounds)	661	1,542	2,297,662	2,299,864
Cocaine (pounds)	5,962	206	5,992	12,161
Heroin (ounces)	441	49	6,383	6,873
Methamphetamine (pounds)	10	274	3,430	3,715
Ecstasy (pounds)	0	199	101	300
Other Drugs* (pounds)	157	38	415	610

Table 1. U.S. Border Patrol Seizure 2012⁴³

⁴¹ Office of National Drug Control Policy, *National Northern Border Counternarcotics Strategy 2012*, Office of National Drug Control Policy, accessed December 20, 2013, http://www.whitehouse.gov/sites/default/files/page/files/national_northern_border_counternarcotics_strategy.pdf, 4.

⁴² *Ibid.*, 6.

⁴³ U.S. Border Patrol, “2012 Sector Profile.”

2. Terrorism

Terrorism in the United States before 9/11 was not seen as a significant fear despite events like the Oklahoma City Bombing in 1995 and other small-scale attacks. The current threat comes from groups like Al-Qaida that strive to remove the U.S. and allies from Islamic world and create a wave of rebellion throughout the world against western ideals.⁴⁴

U.S. government agencies do not agree upon the definition of terrorism. DHS defines terrorism:

Any activity that involves an act that is dangerous to human life or potentially destructive of critical infrastructure or key resources and is a violation of the criminal laws of the United States or of any state or other subdivision of the United States; and, appears to be intended to intimidate or coerce a civilian population, or to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping.⁴⁵

Although official organizations use different terms, the fundamental issue is the threat of any group that would use violence to achieve its means. These groups must not be permitted to engage in deadly activity. In addition, government forces must prevent extremely dangerous weapons from being acquired; this includes any WMD or other type armaments.

The term terrorist is used to describe many different groups and ideologies. The threat presented by any subversive group, regardless of the motivation must be dealt with prior to successful acts of violence. The nature of terrorism and its typical lack of state support or traditional armies create a situation where every unknown subject is a potential hostile threat and every vehicle can be transport for terror.

Terrorist attacks have been motivated by many different reasons and the list is outside the scope of the thesis, but the principle concepts of terrorism and its motivation

⁴⁴ Audrey K. Cronin, *How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns* (Princeton: Princeton University Press, 2009), 169.

⁴⁵ U.S. Department of Homeland Security, *National Preparedness Goal*, 1st ed., 2011, <http://www.fema.gov/pdf/prepared/npg.pdf>.

remain an ever present threat. The inspiration driving a terrorist group may even have legitimate reasoning, which a state can deal with to remove the incentive for engaging in terrorism.

3. Weapons

Both conventional and unconventional arms can be transferred between states; laws allowing some types of weapons on one side of the border but not the other. The thesis will examine the general classification of weapons as nuclear, biological, chemical, and other types of weapons.

Each of the types of weapons provides their own threats and levels of harm. The threat also changes the tools required to counter each type. Smugglers can break complex systems into smaller segments for easier movement and harder detection. The next section will look at the differences between the various weapon types that aid in prevention.

a. Chemical/Biological Weapons

Biological weapons may be one of the oldest forms of non-conventional arms with uses recorded in 1346 when plague-ridden bodies were flung into walled cities to wreak havoc and defeat enemy soldiers.⁴⁶ The armies using the techniques did not understand the science but the effects were undeniable. As technology improved and scientific knowledge grew, the understanding of what caused disease and what would really prevent illness allowed for the use of biological agents to inflict pain and suffering upon the adversary.

Various methods can be utilized to create biological weapons. In addition, the dispersal system can be extremely limiting due to the requirement of keeping the organism alive in order to infect the intended targets. All of these factors will influence what weapon is being pursued by the group and what steps can be taken to intervene. Two researchers, Theodore Rosebury and Elvin Kabat of Columbia University in 1942,

⁴⁶ Jeanne Guillemin, *Biological Weapons: From the Invention of State-Sponsored Programs to Contemporary Bioterrorism* (New York: Columbia University Press, 2005), 3.

reported on the effects and effectiveness of a multitude of biological agents.⁴⁷ The report shows the large amount of hazardous organisms able to harm or kill and examines the mortality rate between viruses and bacteria. Keeping material virile to infect with maximum results is one of the most significant limitations of biological agents.⁴⁸

Unlike chemical weapons, the biological agent must be kept alive to be useful and this complicates the dispersal, storage, and transportation systems. The variations between the different agents were examined in order to determine the best weapons and most effective arms. The research looked at incubation time for infections, lethality rates, as well as methods of immunizations.⁴⁹ Terrorist and criminal groups can use multiple agents so vigilance against many threats, from low to high level, is necessary.

Multiple efforts can be taken to counter the different biological agents but are only effective against an identified threat. The best defense is to prevent their presence before they can be used, however the reality of the threat prevents this goal from being completely feasible so internal safeguards must also be implemented.

The differences between biological and chemical weapons are the living organisms that are part of a biological agent versus the non-organic composition of the chemical category. Historical uses of chemical weapons can be traced back to World War 1 in 1915 with both sides of the conflict using various chemicals to destroy enemy troops, to the more recent terrorist organization of Aum Shrinikyo that attacked Japanese civilians on two different occasions with sarin gas and caused 12 fatalities in 1995.⁵⁰ Both of these examples show dedicated and well-funded examples of chemical weapon manufacture. The Aum Shrinikyo attacks suffered from a limited timeline and therefore were not as successful as they might have been with more time to execute their original plan.

⁴⁷ Ibid., 28.

⁴⁸ Ibid., 28.

⁴⁹ Ibid., 30.

⁵⁰ Jonathan B. Tucker, *War of Nerves: Chemical Warfare from World War I to Al-Qaeda* (New York: Pantheon Books, 2006), 330.

In addition the material that can be combined to create extremely hazardous chemicals are by themselves common necessities to modern living and will not be difficult to gather. The abundance of resources makes prevention much harder. As dangerous as the chemical and biological weapon may be, the next weapon set is potentially the most lethal system possible.

b. Nuclear/Radiological Devices

The nuclear or radiological threat is always one of the most dire and serious topics in a discussion of weapons. Once the nuclear weapon has been smuggled into the country and is ready to be used there is very little that can be done to minimize damage and loss of life. Since the first split of the atom, the technological enhancements have made the weapons larger and more effective.

The most significant aspect of nuclear weapon safety comes from proper control of existing stockpiles and regulation and enforcement of all critical elements and technologies that can be utilized in constructing a device. Nuclear bombs are not the only devices categorized under nuclear and radiological devices. There are experts that believe the threat of nuclear weapons being used against the U.S. is much lower today with the end of the Cold War and the removal of so many armed and fueled missiles from both the U.S. and USSR and the new threat is almost welcomed.⁵¹ Reducing the threat of global nuclear war does not remove the need of continued vigilance against rogue states and terrorist groups from achieving nuclear capabilities; as well as the danger these entities pose to smaller areas subject to significant destruction and long lasting radiological effects.

Some scholars believe that most terrorist groups are not interested in becoming nuclear-armed terrorist. Matthew Bunn articulates the issue with nuclear weapons and their side effects for a terrorist group:

⁵¹ Joseph Cirincione, *Bomb Scare: The History & Future of Nuclear Weapons* (New York: Columbia University Press, 2007), 84.

Most terrorist groups have no interest in threatening or committing large-scale nuclear destruction. Focused on local issues, seeking to become the governments of the areas now controlled by their enemies (and thus not wanting to destroy those areas), and needing to build political support that might be undermined by the horror and wanton destruction of innocent life resulting from a nuclear attack, all but a few terrorist groups probably would not want to get and use a nuclear bomb even if they could readily do so.⁵²

Nuclear motivated groups would find an intact device much easier to use than creating the technology from scratch due to the complex science and research involved.⁵³ There is evidence that the group Al Qaeda is actively pursuing nuclear technology in order to attack western countries and spread fear throughout perceived enemy states.

In addition to nuclear weapons, radiological material can be unleashed on a population by means of destruction to a nuclear power plant or conventional explosives merged with radiation to unleash a dirty bomb. The dirty bomb can best be prevented with the interdiction of radioactive material at the border. The specific amount of damage that would be caused from these devices may not be as large as traditional nuclear devices, but the psychological effects that the attacks would have on the population may be very significant. The prevention of attacks at nuclear sites is a much more complicated and separate issue that cannot be solved with better border security.

c. Other Types of Weapons

The remaining types of arms include traditional guns, rifles and pistols, explosives and similar devices. There are legitimate uses and legal purposes behind these devices and will always be imported through the country. The issue comes with groups smuggling the weapons and circumventing the monitoring system that the states have set up to ensure lawful use and ownership. When groups or individuals obtain weapons and are able to do so beyond the limits of the law, the population can bear the consequences.

⁵² Ibid., 89.

⁵³ Ibid., 90.

Each nation has the right to regulate the types of weapons that may be transported across its border lines and to determine what arms the population may possess; these regulations further dictate what will be sought due to restrictions by citizenry outside of official channels. These desires can create markets much like the U.S. ban of alcohol during prohibition of the 1920s in which criminals seek to facilitate banned weapons and munitions. Both countries must ensure maximum effort by the border personnel to prevent these exclusionary items in order to keep a positive relationship between the neighboring states.

The creation of the DHS pushed the U.S. to look into the practice of border management and defense with one agency responsible for both. DHS attempted to use one method to defend all of the various types of border. It did not work and the defense of the border was altered to focus on the goal of prevention of terrorist threats and contraband entering the U.S. The threats are numerous and varied. Each one presents a different challenge and must be prevented in the best manner that retains the ability for lawful traffic to continue to traverse the border. The reason for border enforcement is to keep the threat out of the country and prohibit abuses that endanger the people of the nation. The next chapter will examine the specific policies that have been implemented between the two states and what these policies provide for protection from the aforementioned threats.

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III. U.S.-CANADIAN BORDER POLICIES

Despite ever-present threats on a country's borders, a nation must interact with the outside world and cooperate with its neighbors to prosper and defend itself. By examining the history of the U.S. and Canada and tracing their shared development, it is possible to understand how they have arrived at their present state of interaction. The chapter will first examine the history that the two states shared and then delve into the current level of cooperation existing between them. Except for the War of 1812, the two nations are peaceful allies, however, the origin of both countries is an important detail that helps to understand the differences between the two nations and why the border is in the condition it is.

A. BORDER POLICY PRIOR TO WORLD WAR II

After the American Revolution, the U.S. sought to expand its territory and fought to expand westward. Colonial powers occupied much of the territory across the remaining sections of North America so certain amounts of conflict or negotiation with the nations were inevitable. Only one large scale conflict directly threatened the continued existence of the U.S., the War of 1812. In the early years of the U.S., there was a significant period of fear and the threat of war loomed between the U.S. and the region to the north.⁵⁴ There were three reasons ultimately preventing war from developing between the territory north of the U.S. and the U.S.: the allegiance between the northern area and the UK, the high cost of a battle, and the profit that the commercial ventures gained with the current groups on both sides of the border. A primary factor that helped keep both sides from full conflict was the alliance that the territory destined to become Canada had with the UK and the side effects of war.⁵⁵ A driving force behind the expansion for the U.S. was Manifest Destiny.⁵⁶ The term, coined by Editor John Louis

⁵⁴ Mason Wade, *The United States and Canada* (Englewood Cliffs, NJ: Prentice-Hall, 1964), 40.

⁵⁵ William T. R. Fox, *A Continent Apart: The United States and Canada in World Politics* (Toronto: University of Toronto Press, 1985), 34.

⁵⁶ Wade, *The United States and Canada*, 43.

O'Sullivan, expressed the belief that the expansion of the country was destiny.⁵⁷ The desire put the area of Canada into the sights of some groups, and Secretary of State W. H. Seward, that sought to have one nation throughout the entire continent.⁵⁸ In addition, there was such a strong connection and working relationship that a change would do more harm than good and only create turmoil between the UK and the U.S.⁵⁹

Despite the working peace, a drive towards absorbing Canada was very strong at the end of the U.S. Civil War. A resurgence of Manifest Destiny in the U.S. drove the population of Canada to create a separate nation in 1867. The new state, called the Dominion of Canada state remained allied with the UK but was able to maintain a moderate level of independence.⁶⁰ This dominion remained loyal to the UK but permitted a level of autonomy that grew through the years to a much larger and independent nature.

Once the U.S. pushed west across the continent, two coastlines and vast geographical features made up its borders. It was the primitive travel options, rather than the vast national borders, that inhibited long distances and transnational movement. Under the Monroe Doctrine, Europe was pressured to stay out of the politics of the American continents and in turn the America's stayed out of that part of the world.⁶¹ After World War I, this began to change with the emergence of the U.S. as a new super power.⁶² The large oceans that served as natural barriers removed a level of stress from the equation and allowed the U.S. and Canada to stay in North America. Once the two nations saw their fates intertwined, they declared mutual protection over each other.⁶³ The bond between the U.S. and Canada became one of two concerned neighbors that worked together without the desire to conquer the other's territory.

⁵⁷ LeMay, *Guarding Gates*, 37.

⁵⁸ Wade, *The United States and Canada*, 43.

⁵⁹ Fox, *Continent Apart*, 37.

⁶⁰ Wade, *The United States and Canada*, 43.

⁶¹ Fox, *Continent Apart*, 40.

⁶² *Ibid.*, 6.

⁶³ *Ibid.*, 13.

1. Cooperation for Mutual Defense

After achieving relative independence in 1867, the Canadian government balanced its interests between British and U.S. priorities. The bond between the U.S. and Canada grew stronger. The Ogdensburg declaration of 1940 is a strong example of the unified bond between Canada and the U.S. The declaration created a board for bilateral defense of the nations. It also elevated Canada to an equal U.S. regarding military supply contracts and support.⁶⁴

In 1938, President Franklin Roosevelt acknowledged the U.S. “would not stand idly by if Canada was attacked.”⁶⁵ Two days later, the Canadian Prime Minister Mackenzie King matched the agreement with his pledge to prevent an enemy attack of the U.S. over Canadian air, sea, or land.⁶⁶ The two nations grew closer in many ways, but the emergence of a significant threat from Nazi Germany solidified the relationship further in the years leading up to and during the second World War.

Many significant events in Europe have impacted North America. While forces in North America were fighting in the War of 1812, French emperor Napoleon Bonaparte created a vast army that fought many Eurasian Kingdoms, forcing Britain to reduce resources available for the North American war.⁶⁷ After Bonaparte’s defeat, the newly formed power vacuum had to be replaced with a complex system, known as the Concert of Europe that kept the peace in Europe for almost a century.⁶⁸ This new power dynamic ensured that European kingdoms would focus away from North America and not provide a large military force for the U.S. or Canada to need to repel. With limited threats, the

⁶⁴ Craig Stone, “Defence Procurement and Industry,” in *Canada’s National Security in the Post 9/11 World: Strategy, Interests, and Threat*, ed. David S. McDonough (Toronto: University of Toronto Press, 2012), 83.

⁶⁵ Fox, *Continent Apart*, 12.

⁶⁶ Ibid., 13.

⁶⁷ Ibid., 32.

⁶⁸ Joseph S. Nye Jr., and David A. Welch. *Understanding Global Conflict and Cooperation: An Introduction to Theory and History* (Boston: Longman, 2011), 74.

two nations were able to spend funds on other national priorities and to improve their infrastructures, increasing their populations and national wealth.

2. The Rights to Enter and Leave

The two nations were able to continue to peacefully maintain both their civil relationship and extremely long border. The 1796 Treaty of Amity Commerce and Navigation demonstrates this peaceable coexistence. This treaty, informally known as Jay's Treaty, showed cooperation between the two nations and a willingness to work together for prosperity. The third article specifically deals with commerce and access for the populations of the two areas to intermingle and go into each other's zones for these endeavors and allows citizens to travel across the area for trade and commerce.⁶⁹

One of the largest issues for the expanding U.S. was space and population management. The dilemma of too much space and not enough population was undertaken by loose immigrations policies that pushed to have more people to populate and work the emerging countryside.⁷⁰ The concept of citizenship was wrapped around the issue of immigration as early as 1799 with a judicial ruling regarding citizenship rules.⁷¹ The ruling of Chief Justice Ellsworth of the Circuit Court of the U.S. declared that the U.S. could not afford to lose its citizens based on its size compared to small population, so U.S. citizenship was not something to easily be capitulated.⁷²

The system of immigration control paperwork, the modern passport program, significantly impacted the ability of people to enter and exit the U.S. Initially, U.S. passports were for identification and an acknowledgement that an action was taken to enter another region. In 1856, the ability to grant or withhold approval fell under the purview of the U.S. Secretary of State. The secretary could not remove the person's

⁶⁹ "Treaty of Amity Commerce and Navigation, U.S.-UK, February 26, 1796," 2013, Yale, http://avalon.law.yale.edu/18th_century/jay.asp,

⁷⁰ LeMay, *Guarding Gates*, 36.

⁷¹ Alan Dowty, *Closed Borders: The Contemporary Assault on Freedom of Movement* (New Haven, CT: Yale University Press, 1987), 48.

⁷² Alfred M. Boll, *Multiple Nationality and International Law* (Leiden, The Netherlands: Martinus Nijhoff Publishers, 2007), 182.

ability to travel to other countries since the need for a passport did not coincide with the permission to enter and exit a state.⁷³ It changed when the need for a passport became mandatory in 1918 and a citizen could finally not leave the country without having the proper clearance through a stamped passport. In 1926, the U.S. State Department took control of the Passport Program.⁷⁴ The U.S. passport requirement lapsed between the two world wars but with other nations still required passports so there was no need for U.S. legislation. In 1941, another law was added once more requiring passports for U.S. citizens to travel abroad.⁷⁵ Passport denial became a way to prevent undesired travel from population groups that were deemed counter to U.S. political or social order. In 1950, this authority was codified by the Internal Security Act of 1950, when groups aligned with the communist party were denied access to passports. Judicial appeals to the laws of control ultimately resulted in challenges to the status quo and a right for people to travel out of the country; however the result was limitation based on threats presented by individuals and the need to review any issuance prohibitions on a case by case basis under a U.S. State department 1980 passport issue regulation.⁷⁶ The state department felt that individual freedoms had to be balanced with protecting the nation against possible threats.

Passport issuance is one aspect of population tracking; the other part is deciding who is allowed to come to the country from other nations. Different eras have had varying policies for the people that are allowed to enter the country and some of the most restrictive occurred with the passage of the Immigration and Nationality Act, also known as the McCarran Act of 1952.⁷⁷ A wide swath of people were defined as undesirable and not allowed to enter the U.S. for reasons that would be illegal by today's standards; individuals included homosexuals and communists.

⁷³ Dowty, *Closed Border*, 127.

⁷⁴ *Ibid.*, 127.

⁷⁵ *Ibid.*, 128.

⁷⁶ *Ibid.*, 129.

⁷⁷ *Ibid.*, 131.

B. POLICIES OF THE COLD WAR

Even before the allies won WWII, the U.S. was shifting from an agricultural nation that pursued isolationism and separation to a world power. After WWII, the two superpowers, USSR and the U.S. became tangled in a world wide effort to build allies for their respective and in many ways opposite goals. The Cold War did not escalate into a full conflict, but the nature of the conflict and the scale of the number of countries that were involved made it as significant as the previous world wars in terms of global impact.

In North America, both nations were allied against the communist threat. A strong example of this bond is the Canadian uranium mining conducted during World War II and continuing in support of the major build up for the Soviet Cold War arms race.⁷⁸ The partnership did not last long as the global situation changed and the demand for additional sources of uranium made the U.S. look elsewhere after 1959.⁷⁹

One of the largest impacts of WWII on North America was the strengthened relationship between the U.S. and Canada. There were two significant advantages that the U.S. and Canada had at the end of the war. The first benefit was the lack of damage to the manufacturing and agrarian infrastructure of both nations unlike many of the war-torn nations of Europe and Asia.⁸⁰ The other advantage was the knowledge both countries gained regarding early intervention in global conflict.⁸¹ Prior to this conflict, there was a common view of isolation and avoidance until absolutely no option remained. Canada worked with the rest of its allies to maintain an overseas presence and reduce the threat of another global conflict. Victory propelled the two nations to become much more involved in global politics and to see themselves as stronger allies.

The fall of the Axis nations brought a new team dynamic, the western world versus the USSR and its partners. The North Atlantic Treaty Organization (NATO) came

⁷⁸ James Eayrs, "Sharing a Continent: The Hard Issues," in *The United States and Canada: The American Assembly*, ed. John Dickey (Englewood Cliffs, NJ: Prentice-Hall, 1964), 70–72.

⁷⁹ *Ibid.*, 72.

⁸⁰ Fox, *Continent Apart*, 118.

⁸¹ *Ibid.*, 118.

out of this new threat in 1949.⁸² This multinational organization included European nations, the U.S. and Canada; the inclusion of these two nations demonstrates the importance of European stability for the North America and their continued involvement in global defense.⁸³ While not exclusively a U.S.-Canadian agreement, it was important in bonding the two nations and even had strong early support in Canada.⁸⁴ Both nations were interested in securing the globe against threats before they could impact the continent. The Canadian NATO membership did not mean all U.S. interests were automatically supported by Canada. A prime example of the ability to act differently from the U.S. was shown with the Cuban situation of 1962 that showed a willingness to support the U.S. but not alter political relationships with Cuba.⁸⁵

The United Nations (UN), founded in 1945, was another organization created after WWII that altered the global scene and strongly supported by the U.S. and Canada.⁸⁶ Canada may not have had the same capabilities as the U.S., but its support for the UN is significant, including providing personnel as well as membership in the UN Atomic Energy Commission.⁸⁷

The geography of the North American continent was a crucial part in the defense of the U.S. against the USSR during the Cold War. The shortest path for a Soviet missile to hit the U.S. was to travel over Canada. This looming threat was significant to the relationship of the North American nations. The creation of North American Aerospace Defense Command (NORAD), in 1957, served to defend the airspace over the two nations and help detect incoming missiles from other nations, specifically the Union of

⁸² John W. Holmes, "The Relationship in Alliance and World Affairs," in *The United States and Canada*, 96.

⁸³ Alexander Moens, "NATO and the EU: Canada's Security Interests in Europe and Beyond," in *Canada's National Security in the Post 9/11 World: Strategy, Interests, and Threats*, ed. David S. McDonough (Toronto: University of Toronto Press, 2012), 141.

⁸⁴ Holmes, "Relationship," 121.

⁸⁵ *Ibid.*, 102.

⁸⁶ LeMay, *Guarding Gates*, 144.

⁸⁷ Holmes, "Relationship," 104.

Soviet Socialist Republics (USSR).⁸⁸ The U.S. and Canada provide personnel and leadership for the organization, and there are headquarters in both the U.S. and Canada.

The Canadian government had to allow the construction of multiple radars and close cooperation with the U.S. military facilitated the radar system for early detection of missile attacks. The cooperation between the two did equate to a blanket pass for U.S. forces to be provided full military presence and forward operating bases in Canada.⁸⁹

The history between the two nations has had times of competing interests with unforeseen impacts on wide groups of individuals. One of these examples is the events surrounding the production of the Canadian aircraft CF-105. This aircraft was touted as the Canadian solution to defense that would enrich its economic possibilities.⁹⁰ The various parts of the original plan involved multiple nations for production, but all of the other nations stopped production and had to be renewed by the Canadians.⁹¹ The program was canceled due to cost overruns, a loss of every other potential customer, and a view that aircraft would not be adequate. Many Canadians blamed the failure on the U.S., but the reality was much more benign, mismanagement and overconfidence.

C. AFTER THE 9/11 ATTACK

The attacks of New York and Washington, DC immediately pushed the border and the threat of terrorism into the forefront for politicians on both sides of the border. In the U.S., the Office of Homeland Security and the Homeland Security Council were created on October 2001.⁹² Both of these organizations were given to the executive office, while the Department of Homeland Defense was drafted as a new cabinet department and formally active November 25, 2002.⁹³ The new DHS was lauded by

⁸⁸ Robert A. Pastor, *The North American Idea: A Vision of a Continental Future* (Oxford: Oxford University Press, 2011), 183.

⁸⁹ Eayrs, *Sharing a Continent*, 64.

⁹⁰ *Ibid.*, 66.

⁹¹ *Ibid.*, 66.

⁹² LeMay, *Guarding Gates*, 204.

⁹³ *Ibid.*, 208.

President Bush after approving the bill by saying “the homeland security act of 2002...restructures and strengthens the executive branch of the federal government to better meet the threat to our homeland posed by terrorism... to help prevent, protect against, and respond to acts of terrorism.”⁹⁴

The new department changed the way that the U.S. government interacted and handled the border. All of the personnel of the Immigration, Naturalization Service (INS) were absorbed and re-tasked inside of the new department. There was significant blame placed on the border agency and its failures after the attack even though there were no hijackers that snuck across the border illegally.⁹⁵ DHS focused on terrorism prevention and moved immigration away from the forefront. Within the DHS, there were two bureaus that focused on the separate parts of the border; the Directorate of Border Transportation Security and the Bureau of Citizenship and Immigration Services.⁹⁶

In December 2003, the Canadian government created the Public Safety and Emergency Preparedness Canada organization that preforms many of the similar functions that DHS does in the U.S.⁹⁷ The next prime minister shortened the title of the department to Public Safety Canada (PSC) but kept the priorities of infrastructure protection and emergency management.⁹⁸ The new department absorbed the Royal Canadian Mounted Police (RCMP), the Canadian Security Intelligence Service (CSIS), and the Canada Border Services Agency (CBSA).⁹⁹ These three agencies perform the core functions of border protection and defense inside of Canada and the new PSC was specifically tasked with keeping the nation safe in the event of any emergency.

⁹⁴ Ibid., 208.

⁹⁵ Ibid., 209.

⁹⁶ Ibid., 215.

⁹⁷ Elinor Sloan, “Homeland Security and Defence in the Post-9/11 Era,” in *Canada’s National Security in the Post 9/11 World: Strategy, Interests, and Threats*, ed. David S. McDonough (Toronto: University of Toronto Press, 2012), 100.

⁹⁸ Ibid., 100.

⁹⁹ Díez, *Canadian and Mexican Security*, 35.

NORTHCOM, in the footsteps of NORAD, was a new U.S. military command setup in 2002 to coordinate between the various levels of government and military groups that would focus on the North American continent.¹⁰⁰ NORTHCOM is based in Petersen Air Force Base in Colorado Springs, Colorado. NORTHCOM encompassed Canada, Mexico, and several nations in the Caribbean, in addition 500 miles of the ocean was included.¹⁰¹ In addition to military cooperation, NORTHCOM was also directed to work directly with DHS in order to maximize protection of U.S. soil. There is not the same level of cooperation with Canada inside NORTHCOM as there is in NORAD; however there is a concrete plan to cooperate in the face of an emergency and allow forces from either state to cross the border to provide assistance to the other.¹⁰²

In Canada, a 2006 action created a similar organization to assist with military forces for the homeland of Canada called Canada COM.¹⁰³ As with NORTHCOM, this organization was tasked with Canada, the U.S., Mexico, the Caribbean, and the artic and based in Ottawa. The change of having military forces ready to respond inside of the nation represented a significant change from the previous policy of only looking to the international arena for the use of military force.¹⁰⁴ The Canadian military is tasked with defending the maritime region of Canada but is limited by the capability of its aircraft inventory.¹⁰⁵

The capabilities of the U.S. intelligence system was one of the largest concerns about the terrorism threat inside the U.S. and fueled a drive to reform and improve perceived shortcomings with the Intelligence Reform and Terrorism Prevention Act of 2004.¹⁰⁶ The bill created the Director of National Intelligence (DNI) in order to facilitate

¹⁰⁰ LeMay, *Guarding Gates* 250.

¹⁰¹ Sloan, *Security*, 94–95.

¹⁰² *Ibid.*, 119.

¹⁰³ Sloan, “Homeland Security and Defence in the Post-9/11 Era,” 103.

¹⁰⁴ *Ibid.*, 103.

¹⁰⁵ *Ibid.*, 105.

¹⁰⁶ Sloan, *Security*, 72.

the flow of intelligence and gather the different intelligence agencies with a single head to ensure information goes to the decision makers and action is taken as soon as possible.

In order to ensure travelers were fully vetted, one of the requirements of the intelligence reform bills was to require all people to possess a valid passport to enter the U.S.¹⁰⁷ The program, Western Hemisphere Travel Initiative (WHTI) went into effect June 1, 2009.¹⁰⁸ Despite requests of Canadian officials to delay the start date due to the concerns about the added level of scrutiny between the two borders would harm relation.¹⁰⁹.

D. U.S.-CANADIAN COOPERATIVE PROGRAMS

One of the first cooperative measures taken in late 2001 was the Smart Border Accord in December 2001.¹¹⁰ One of the agencies set up from the accord was the Integrated Border Enforcement Team (IBET).¹¹¹ The team includes members from the CBSA, RCMP, CBP, U.S. Immigration and Customs Enforcement (ICE), and the U.S. Coast Guard to coordinate the flow of goods and people across the border while preventing unauthorized travel or transport.¹¹²

Another program from the Smart Border initiative was the NEXUS program that reflected the priorities of the two governments.¹¹³ The goal was to balance economic interests with security concerns. The NEXUS allowed business groups to travel across the border in dedicated lanes for expedited crossings. As the largest trading partner of Canada, the businesses that travel across the U.S.-Canadian border are a vital part of that

¹⁰⁷ Ibid., 88.

¹⁰⁸ U.S. Department of Homeland Security, *Western Hemisphere Travel Initiative, Department of Homeland Defense*, last modified February 1, 2014, <http://www.dhs.gov/western-hemisphere-travel-initiative>.

¹⁰⁹ Hussain, *North American Homeland Security*, 60.

¹¹⁰ Ibid., 86.

¹¹¹ Díez, *Canadian and Mexican Security*, 35.

¹¹² Canada Border Services Agency, *Canada-United States Integrated Border Enforcement Teams*, last modified February 1, 2014, <http://www.cbsa-asfc.gc.ca/security-secureite/ibet-eipf-eng.html#mission>.

¹¹³ Sloan, *Security*, 86.

partnership.¹¹⁴ In addition, the Free and Secure Trade (FAST) program focused on commercial trucks shipping back and forth across the U.S.-Canadian border.¹¹⁵

The two states have a shared history and similar cultural traits. The programs that have been set up between the two nations have altered in some ways but the general understanding that what effects one side of the border will directly impact the other has not changed since 1776. The two nations prosper with cooperation and like the convention that Europe has set up, more cooperation can create safer and stronger bonds for both countries.

¹¹⁴ Ibid., 86.

¹¹⁵ Ibid., 87.

IV. SCHENGEN CONVENTION

The U.S.-Canadian border dynamic demonstrates one approach for relations between non-combative states. The SC, which has been in place since 1995, provides an alternative model for international border cooperation. The ever-expanding outer borders of the Schengen area, currently encompassing 26 European nations, stand to prevent contraband and individuals from entering the zone without proper authorization. An invisible wall protects the participating nations from external threats while removal of internal borders allows free movement of vetted people and goods.

The European continent has a long history of bitter rivalry and warfare between the nations, and their interactions created long lasting scars. Despite all the history of conflict, the nations were able to overcome these issues and create a completely different system of political cooperation. Most of the 28 EU nations have different origins, languages and customs, which complicate their ability to understand one another.¹¹⁶ In order to fully understand the impact of the Schengen Convention and the role it has taken for both border security and enforcement, it is necessary to explore its creation, modification and scope.

The SC, named after the settlement in Luxembourg that hosted the signing, creates a common area for countries to enjoy easy access and security under one program.¹¹⁷ The map in Figure 3 shows the current countries in the SC. While not all EU nations are part of the convention, the Schengen area essentially envelopes all of Europe.

¹¹⁶ Europa, "European Union," accessed January 20, 2014, http://europa.eu/about-eu/countries/member-countries/index_en.htm.

¹¹⁷ Zaiotti, *Cultures*, 2.

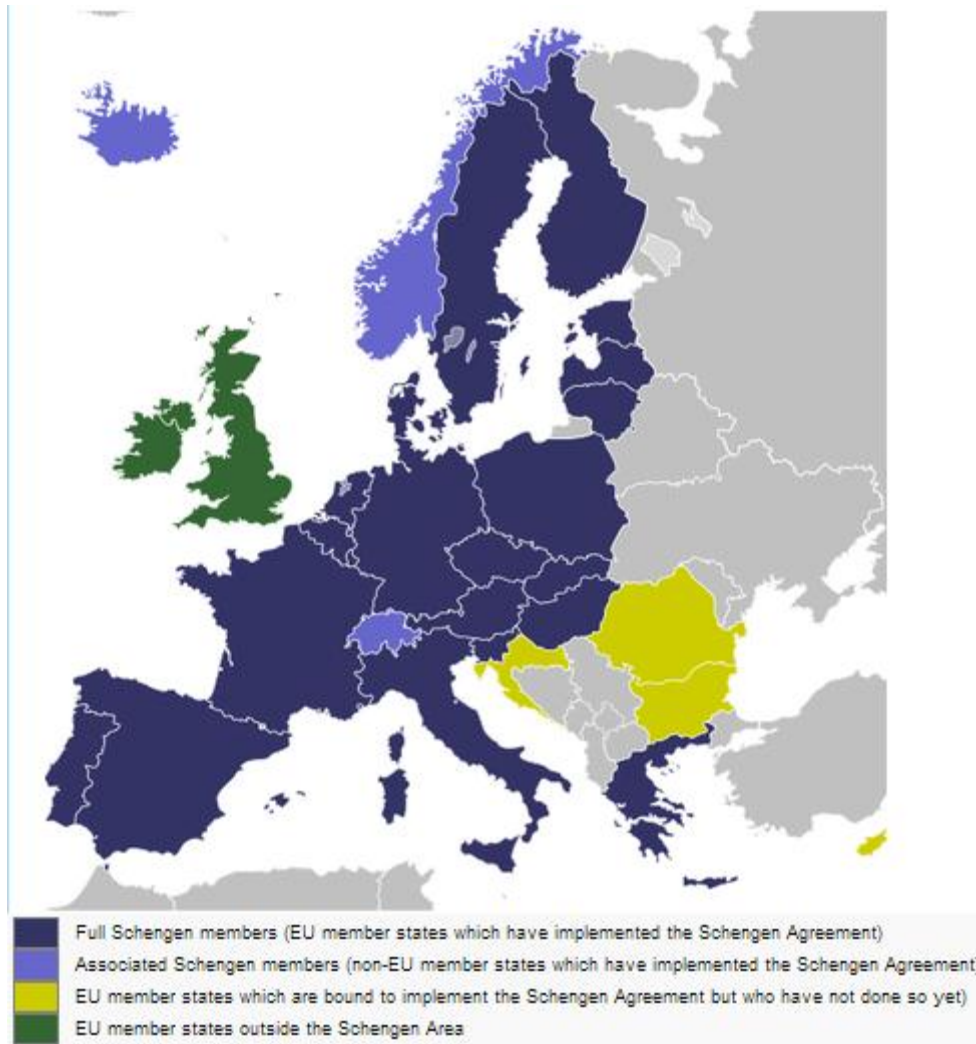


Figure 3. Schengen Area¹¹⁸

The Schengen convention began when France, Germany, the Netherlands, Belgium, and Luxembourg pushed to share borders to facilitate the rapid movement of people and products within a common area and a security zone pushed to their external borders.¹¹⁹ There were two key parts of the agreement that altered the previously accepted view of borders and created the Schengen way of border enforcement. First was the renouncement of internal border controls between complying nations. The priority of

¹¹⁸ *Wikipedia*, s.v. “Schengen Area,” last modified March 2, 2014, https://en.wikipedia.org/wiki/Schengen_Area.

¹¹⁹ Zaiotti, *Culture*, 2.

a nation agreeing to be part of the Schengen contract would be shared sanctuary among members of the security zone. Thus, the SC superseded the national identity that was determined by the borders and pushed the safety zone to the perimeter of the entire group of participating nations. The second part of the new border program was the loss of control over the border in common areas except in extreme circumstances with expressed consent of fellow Schengen states.¹²⁰

Instead of a person entering a state to conduct business in that state alone, the new system allowed people to enter one state and have unrestricted movement throughout the entire SC zone with limited or no tracking of movement.¹²¹ The idea of a nation granting such large amounts of authority to other states without significant assurances of enforcement but instead on trust was a significant change to the status quo and the nature of state relations in modern history.

A. ISSUES LEADING TO SCHENGEN

The Schengen convention was created in a fast changing and globalized world and many of the influences that led to the changes of the border systems happened in an ad hoc manner. Tracing the steps shows how the nations dealt with various factors and how these changes helped form the Schengen environment.

Prior to Schengen, most of the European states utilized a method similar to the Westphalia method, established from the peace treaties of 1648 that defined State sovereignty as the sole factor deciding on the matters inside the borders of nations and further described interactions between other states.¹²² The enforcement of the border is dependent on the nation's ability to provide the force and manpower needed. This requirement was not consistently provided for by European states from the inception of Westphalia until large scale forces during WWI challenged the circumstances that had

¹²⁰ Ibid., 3.

¹²¹ Ibid., 3.

¹²² Ibid., 46.

kept states disinterested in the borders and immigration controls.¹²³ The issues that brought the borders into the political arena included global level financial crises, massive immigration fluctuations, and a greater concern over internal security from the threat of outside groups. The financial issues came into the debate over concern of import and export concerns.

A push for open borders in Europe did not originate with the SC. In 1957, the Rome Treaty on European Economic Community attempted to remove hindrances to trade for all of the nations that participated by “abolishing ... obstacles to freedom of movement for persons, services and capital.”¹²⁴ The next step for a common area was the creation of the European Customs Union in 1968,¹²⁵ which founded a system for goods.¹²⁶ However, the borders did not open for another 30 years.¹²⁷ The next step towards open borders came with the 1986 Single European Act (SEA), which created the European Union.¹²⁸ The act had the same goal of an area without internal borders and had twelve signatory nations.¹²⁹

The 1988 report, *Europe 1992: The Overall Challenge*, overseen by economist Paolo Cecchini struck a major chord to the European community by demonstrating that the lack of openness throughout Europe may cost more than 200 billion European

¹²³ Ibid., 46.

¹²⁴ “Article 3(c), The Treaty of Rome, 25 Mar 1957,” accessed January 19, 2014, http://ec.europa.eu/economy_finance/emu_history/documents/treaties/rometreaty2.pdf.

¹²⁵ Peter Hobbing, “A Farewell to open Borders? The Danish Approach,” *CEPS Paper in Liberty and Security in Europe*, no. 45, (November 2011), <http://www.ceps.eu>.

¹²⁶ European Commission 40 Years of Customs Union, Europa, “About the Customs Union,” accessed January 18, 2014, http://ec.europa.eu/taxation_customs/40customs/customs_general_info/about/index_en.htm.

¹²⁷ Ibid., 2.

¹²⁸ Ibid., 3.

¹²⁹ “The Single European Act, Europa, Summaries of EU Legislation,” accessed January 18, 2014, http://europa.eu/legislation_summaries/institutional_affairs/treaties/treaties_singleact_en.htm.

Currency Units (ECU).¹³⁰ The report describes the problem with Europe's system of competing markets and unneeded border inspection stations.¹³¹

B. SCHENGEN FEATURES

The features of the SC ensure a successful open border policy. The integrity of the outer borders remains a critical concern for all participating nations to preserve the national security of the inner borders. The initial agreement encountered complications from French concern in 1993 after the executive committee (Comex) was created.¹³² The French were worried that the outer borders were not fully capable of keeping unauthorized individuals out of the encapsulated sector of the Schengen area. With all of the concerns addressed; the signatory nations agreed to the full implementation of the SC in June 1993. Ultimately, the SC was able to resolve technical issues and implement the agreement on March 26, 1995.¹³³

The major components of the initial SC consisted of Comex, the Schengen information system (SIS), and a common visa program.¹³⁴ Each of the parts will be looked at in greater detail to fully understand the difference between the new changes and the previous method.

1. Comex

Comex was the legislative program that the SC created in order to discuss and establish rules for the participants and deal with any complications that arise between the states. Comex gained authority over the other groups directly from the legislation of the convention. Ultimately, this legislative body was dissolved when the Treaty of

¹³⁰ "Europe 1992, Archive of European Integration," University of Pittsburgh, accessed January 18, 2014, <http://aei.pitt.edu/3813/>.

¹³¹ Hobbing, "Farewell," 3. This report was highlighted as significant motivator for Europe to begin to open the borders.

¹³² Zaiotti, *Cultures*, 94–95.

¹³³ *Ibid.*, 96.

¹³⁴ Europa, "The Schengen Area and Cooperation," accessed February 10, 2014, http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/133020_en.htm.

Amsterdam, signed in 1999, authorized the SC to be a part of the EU and the European Union Council (EUC) became the leading body for the program.¹³⁵ While the name of the body has changed, its purpose remains the same.

2. Schengen Information System

The SIS provides the infrastructure and linkage that is critical to keeping all of the nations updated and knowledgeable of threats across the various border points. Before the implementation of the SIS there was not a system that united all of the nations with the same level of information and details. The SC lists the requirements and expectations of the SIS and how all participants must comply with the program and contribute to the system.¹³⁶ Some of the specific requests include: alerts on people and property regarding border checks, visa issuance, residency permits and other types of similar information.¹³⁷ The second generation of SIS, SIS II activated April 9, 2013 and added features of biometrics and increased security.¹³⁸ The system holds information on individuals that may have been convicted of violent crimes, missing person reports, and multiple other descriptions pertinent to border patrol agencies. All of the data is available throughout the EU and Schengen states.¹³⁹ This database is a significant advantage for the program and aids in crime prevention. In the arena of crime prevention, the ability of police forces to cross borders in order to capture fleeing suspects has been expanded by the SC to loosen some of the red tape that borders have inflicted.¹⁴⁰

¹³⁵ Europa, "The Schengen Area and Cooperation."

¹³⁶ EUR-Lex, "Title IV, Schengen Convention," accessed January 19, 2014, [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922\(02\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922(02):EN:HTML).

¹³⁷ EUR-Lex, "Title IV, *Schengen Convention*."

¹³⁸ Europa, "Schengen Information System," last modified August 14, 2013, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/index_en.htm.

¹³⁹ Ibid.

¹⁴⁰ BBC, "Q&A: Schengen Agreement," last modified March 4, 2013, <http://www.bbc.co.uk/news/world-europe-13194723>.

3. Common Entrance Procedures

The SC ensured that all people and products entering the states complied with the same level of inspection and entrance rules.¹⁴¹ Entrance visas are valid by all issuing agencies throughout the Schengen area for a predetermined amount of time and not required to travel inside the area.¹⁴² While the borders inside the zone are relaxed, there are still state rules and sovereignty within each state that does not expire. In addition, the borders can be reinforced in times of emergency or in preparation for pending hazards.¹⁴³

4. External Border Defenses

The initial border defenses of the SC calls for each nation to ensure external borders are secure in accordance with standard rules and procedures.¹⁴⁴ In 1999, the Tampere Program pushed for a cohesive border patrol that guards all the external borders.¹⁴⁵ On October 26, 2004 the European Council (EC) created the European Agency for the Management of Operational Cooperation at the External Borders of the Member states of the European Union also known as (Frontex).¹⁴⁶ Each state retains the responsibility for security and inspection at the external borders under this agency; the goal is to improve the coordination between the various nations and provide any needed support.¹⁴⁷ The inauguration of the agency was June 30, 2005, and it was tasked with the following tasks:¹⁴⁸

- coordinate operational cooperation between Member States as regards the management of external borders;

¹⁴¹ Europa, “The Schengen Area and Cooperation.”

¹⁴² EUR-Lex, “Title II, Article 6, *Schengen Convention*.”

¹⁴³ Hobbing, “Farewell,” 3.

¹⁴⁴ EUR-Lex, “Article 8, Chapter II *Schengen Convention*.”

¹⁴⁵ Zaiotti, *Cultures*, 163.

¹⁴⁶ Europa, “European Agency for the Management of External Borders—Frontex,” Summaries of EU legislation, last modified November 24, 2010, http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/133216_en.htm.

¹⁴⁷ *Ibid.*

¹⁴⁸ Europa, “European Agency for the Management of External Borders.”

- develop a common integrated risk assessment model and prepare general and specific risk assessments;
- help Member States train their national border guards by developing common training standards, providing training at European level for instructors of national border guards, holding seminars and offering additional training to officials of the competent authorities;
- monitor research relevant to the control and surveillance of external borders;
- assist Member States in circumstances requiring increased technical and operational assistance at external borders;
- provide Member States with the necessary support in organizing joint return operations. The agency may use the Union resources available for this purpose and must draw up an inventory of best practice for the removal of third-country nationals residing illegally in Member States;
- deploy Rapid Border Intervention Teams to Member States under urgent and exceptional pressure due to, for example, a massive influx of illegal immigrants.

The idea of open borders between the states of Europe was much closer to being a reality for the states that signed up for the initial SC. The implementation of the treaty was not just a matter of a signature and tearing down the border facilities. The next step was to alleviate concerns about security and sovereignty.¹⁴⁹

C. COUNTRIES JOIN SCHENGEN

France was alarmed with more than security when voicing concerns over the program. The question of security and the fear of other nations not securing the border continued to rise in the debates while the initial states still tried to implement the SC.¹⁵⁰ These concerns were dealt with and the program went online with the core group of nations. Every state that joins after this had to meet the new requirements set forth that included the SC rules. In Article 140 of the SC, all the European nations can become part of the Schengen area.¹⁵¹

¹⁴⁹ Zaiotti, *Cultures*, 93.

¹⁵⁰ *Ibid.*, 95.

¹⁵¹ EUR-Lex, “Article 140, Title VIII, *Schengen Convention*.”

Italy was the first nation to pursue membership after the initial five ratified SC in November 27, 1990, and it became a full member in July 1997.¹⁵² The legacy of the Treaty of Rome and the fact that Italy was one of the founding nations to push for a European Community pushed the Italians to join the SC. In addition, the rest of the SC nations wanted to gain additional legitimacy and gain a significant European ally.¹⁵³ The group was concerned with the stability of the Italy's external borders its ability to prevent illegal immigration from crossing into the Schengen area.¹⁵⁴ To alleviate the concerns of the other nations in Schengen, inspection teams conducted in-person reviews of the steps the Italians had taken to comply with all of the SC requirements and then set a date for entrance into the SC.¹⁵⁵

Another country that presented a challenge for the SC countries was the nation of Denmark. Denmark was geographically located within the EU but diplomatically interwoven with the Scandinavian countries. If Denmark was allowed to become part of the SC, the ties to the rest of the Scandinavian nations would not be possible in the same fashion.¹⁵⁶ The Nordic Passport Union, signed in 1957, allowed the citizens of the countries of Denmark, Sweden, Norway, Finland, and Iceland to travel throughout the regions involved.¹⁵⁷ Initially, there was debate over nations outside of the EU being permitted into the SC and the complications over the process of incorporating the SC into the rules of the EU.¹⁵⁸ The solution was presented in two parts: the first came when Sweden and Finland joined the EU, and the second part of the solution came from a request to include the two remaining nations in the SC but with no voting rights for further changes.¹⁵⁹ The nation of Denmark will be looked at in greater detail to better

¹⁵² Zaiotti, *Cultures*, 100.

¹⁵³ *Ibid.*, 101.

¹⁵⁴ *Ibid.*, 101–104.

¹⁵⁵ Zaiotti, *Cultures*, 104.

¹⁵⁶ *Ibid.*, 106.

¹⁵⁷ Ministry for Foreign Affairs of Finland, "Nordic Cooperation," March 11, 2008, <http://www.finland.org/public/default.aspx?nodeid=46133&contentlan=2&culture=en-US>.

¹⁵⁸ Zaiotti, *Cultures*, 107.

¹⁵⁹ *Ibid.*, 108.

compare to the U.S. and Canada and look at the nation's view of international cooperation and border security prior to the creation of the EU, their acceptance of the Schengen convention, and the changes that occurred in the nation after the 9/11 attacks and during the 2011 alteration of Denmark's enforcement of the Schengen agreement.

D. EU NATIONS OUTSIDE OF THE SCHENGEN CONVENTION

Not every nation decided to accept the rules of the SC once the EU adopted them as part of the Treaty of Amsterdam. The UK and Ireland both requested to have access to the SIS in order to assist in police and drug matters but not to be part of the open border policy for the rest of the Schengen area.¹⁶⁰ The Irish decision was based partly on the desire to maintain the common travel area with the UK to ensure the populace could move between the two nations at the same rate as before.¹⁶¹ Nations that join the EU must ensure their border security complies with the requirements set forth by the Treaty of Amsterdam and decided by the EU.¹⁶²

E. WHAT DOES SCHENGEN ACHIEVE

The motivation for creating the SC was to lower the costs of business and increase profits. This motivation has not been the sole purpose of the plan and multiple other effects have come from the agreement. As previously discussed, the SIS provides significant amounts of information to multiple customers.

The SC opens the border and helps business travel throughout the region with lower wait times across borders. The costs of border agents are transferred across all of the Schengen area nations and the threat is spread across the area as well. Despite temporary increases to the internal borders, most of the nations are satisfied with the Schengen and have elected to remain with even more nations attempting to enter into the zone at this time. The SC is not going anywhere in the foreseeable future and lessons should be learned from the experience.

¹⁶⁰ Europa, "The Schengen Area and Cooperation."

¹⁶¹ BBC, "Q&A."

¹⁶² Zaiotti, *Cultures*, 154.

V. DENMARK, THE EU AND THE SC

The nation of Denmark did not enter the SC at its beginning, and as previously discussed, there were complication for its adoption into the Schengen area. Once the EU began to adapt the SC, through the Treaty of Amsterdam, into its foundation, there were further issues for Denmark to deal with.¹⁶³ The issues of the Treaty of Amsterdam deal primarily with the alteration of the EU pillars that broke up the responsibilities of running the international group. The three pillars; the community pillar, foreign policy and security pillar, and the police judicial pillar were removed with the signing of the Lisbon Treaty.¹⁶⁴ The law of Europe was now in concert with the laws of Schengen. The border between the SC nations must be open between the other states except in emergency cases and with proper permission from the other nations.

A. DANISH ORIGINS

Before exploring the situation of 2011, it is necessary to understand the build up to the predicament and the foundation of the government. The current nation of Denmark can trace some of its current territory and customs to the Viking period of more than 1000 years previously.¹⁶⁵ The territory expanded and contracted throughout this time period but the fundamental location of the country in the mouth of the Baltic Sea was a critical part of the history of the state.¹⁶⁶ The country can trace its cooperative nature to the Kalmar union that was a group of kingdoms that included Denmark, Norway, Sweden,

¹⁶³ Ibid., 107.

¹⁶⁴ Europa, "Treaty of Lisbon," Accessed February 1, 2014, http://europa.eu/lisbon_treaty/index_en.htm.

¹⁶⁵ W. Glyn Jones, *Denmark: A Modern History* (London: Croom Helm, 1986), 2.

¹⁶⁶ Viggo Starcke, *Denmark in World History: The external History of Denmark from the Stone Age to the Middle Ages with special reference to the Danish influence on the English-speaking nations* (Philadelphia: University of Pennsylvania Press, 1962), 150.

Finland and Iceland formed in 1397 by Queen Margrethe.¹⁶⁷ This legacy lasted for a little over a hundred years, but it set a precedence of Nordic state cooperation.¹⁶⁸

From this beginning, the country continued to interact with its neighbors, despite war and an ever decreasing territory, but the level of collaboration amongst the Nordic states included negotiation with the concerned neighbors in lieu of armed conflict for difference.¹⁶⁹ During World War I, all of the Scandinavian states cooperated in neutrality and agreed to trade amongst them.¹⁷⁰ Even after World War II, Denmark emerged as a country capable of membership in the larger international community and behaved as such.¹⁷¹

In 1953, a new constitution was approved and the current system of parliament was ushered into existence. In 1956, the People's Pension was created. This pension was the primary bargaining chip in the 2011 border crisis and will be further explained in the following section.¹⁷²

B. BORDERS RETURN TO SCHENGEN

From May until September 2011, the level of border controls at the land borders of Denmark were scheduled to be increased to resemble a traditional border outside of the Schengen area.¹⁷³ The plan included building a customs house and other permanent steps at the border with personnel and gates to check people and products as they traveled into the country.¹⁷⁴ When Finance Minister Claus Hjort Frederiksen announced the change, he stated that the increase in border presence between parties of the Schengen agreement

¹⁶⁷ Jones, *Denmark: A Modern History*, 2.

¹⁶⁸ *Ibid.*, 326.

¹⁶⁹ Starcke, *Denmark in World History*, 327.

¹⁷⁰ Bengt Sundelius, "The Nordic Model of Neighborly Cooperation," in *Foreign Policies of Northern Europe*, (Boulder, CO: Westview Press, 1982), 181.

¹⁷¹ Jones, *Denmark: A Modern History*, 174.

¹⁷² *Ibid.*, 207.

¹⁷³ Martin W. Lewis, "The End of Schengenland?" *GeoCurrents: The People, Places & Languages Shaping Current Events*, May 14, 2011, <http://www.geocurrents.info/geopolitics/the-end-of-schengenland>.

¹⁷⁴ Hobbing, "Farewell," 1.

and Denmark was to lower crime and illegal immigration inside the country.¹⁷⁵ The changes in Denmark came only a few months after the French border had been temporarily closed due to immigration control between Italy and France.¹⁷⁶

The French crisis arose from an influx of immigrants from Italy. There were approximately 25,000 people fleeing North Africa for Italy, and there was a concern they would provide a large financial drain on the country. There were 2,800 people detained on the French border and almost 2,000 of these detainees were returned to either Italy or Tunisia.¹⁷⁷

Denmark passed strict anti-immigration legislation led by the Danish People's Party (DV) and strove to reduce immigration from non-western countries.¹⁷⁸ The restrictions included working limitations and taxing for marriages and limited benefits. Much of these issues have been altered since the Danish election in September 2011, with the new group promising to grant citizenship to additional groups, additional welfare benefits, and less fees to apply for government services.¹⁷⁹

The push for tighter borders in Denmark is a direct representation of political cooperation for two parties to achieve their mutual goals. The 2011 Danish Prime Minister Lars Løkke Rasmussen was the leader of the conservative-right Liberal party, Venstre in Danish.¹⁸⁰ Rasmussen was unable to achieve the economic changes he

¹⁷⁵ *The Telegraph*, "Denmark Announces Decision to Reintroduce Border Controls ahead of Schengen Meeting," May 11, 2011, <http://www.telegraph.co.uk/news/worldnews/europe/denmark/8507772/Denmark-announces-decision-to-reintroduce-border-controls-ahead-of-Schengen-meeting.html>.

¹⁷⁶ Hobbing, "Farewell," 1.

¹⁷⁷ Patrick Henry, "France Bolsters Border Controls as 'Migration Crisis' Heats up," *Bloomberg News*, April 11, 2011, <http://www.bloomberg.com/news/2011-04-11/france-bolsters-border-controls-as-migration-crisis-heats-up.html>.

¹⁷⁸ William Lee Adams, "A Blow to Europe's Far-Right: Denmark Reshapes Its Immigration Policies," *Time World*, October 6, 2011, <http://world.time.com/2011/10/06/a-slap-to-europes-far-right-denmark-reshapes-its-immigration-policies/>.

¹⁷⁹ *Ibid.*

¹⁸⁰ Malthe Mikkel Munkøe, "Denmark after the Election," *Academia*, September 2011, http://www.academia.edu/1469938/Denmark_after_the_Election.

desired.¹⁸¹ The pension reform was not an arbitrary decision to change the budget in Denmark. Since 2008, serious financial burdens including the high expense of the Efterløn, a Danish pension program, were being targeted to reduce for financial savings.¹⁸² The Efterløn plan was lauded for allowing the working class to retire after years of manual labor, while detractors worried about the possible abuse of early retirement.

The pension's support among the working class and its large membership in the, DV created the bond between those wanting to reduce the cost of the pension and the party that wants increased border security.¹⁸³ The far-right group DV was motivated to increase the border control but the leading party was the Left, Liberal Party of Denmark, and they did not have the same agenda.¹⁸⁴ In order to alter a pension program that the Liberal Party did want, they needed the support of the DV to get these changes into law. The DV priorities, per its website, show support for strong national integrity and domestic security.¹⁸⁵ Both sides were motivated to cooperate to achieve their goals. Once the terms for mutual agreement were determined, the next step was to implement the change to the borders. Thus in May 2011, the border changes were announced.

The implementation of the agreement would not be as simple as the negotiating was. Denmark agreed to the terms of an open international border in accordance with the requirements set forth in the Schengen Convention. The EU could not afford to jeopardize the integrity of the SC by allowing member nations to increase internal borders on a permanent basis. The desire for increasing border security inside the state was directly at odds with the obligation of an open Schengen area. At the same time the

¹⁸¹ Malthé Munkøe, "The 2011 Debacle over Danish Border Control: A Mismatch of Domestic and European Games," EU Diplomacy, Paper 1, 2012, http://aei.pitt.edu/33456/1/EDP_1_2012_Munkoe.pdf, 8.

¹⁸² *Ibid.*, 8.

¹⁸³ Munkøe, "The 2011 Debacle over Danish Border Control," 8.

¹⁸⁴ Lewis, "The End of Schengenland?"

¹⁸⁵ Pia Kjærsgaard, "Danish People's Party, The Party Program," accessed February 8, 2014, http://www.danskfolkeparti.dk/The_Party_Program_of_the_Danish_Peoples_Party.

internal demand on the Danish government in support for the changing the pension plan placed the Danish leadership between two opposing obligations.

According to the author Malthe Munkøe, there were direct inconsistencies between the English and Danish versions of the Danish Border plan.¹⁸⁶ The Danish translation was titled “Permanent border control in Denmark,” while an English press release stated “this does not mean that the Danish police will be permanently present at the border.”¹⁸⁷ The English version of the plan glossed over the specific aspects of the increased security and catered to the EU nations and their concerns of a loss of Schengen integrity. The Danish version reinforced the priorities of the DV and the internal calls to increase the border security. The difference between the two translations does not automatically mean deceit was intended, but the subtlety does allow the possibility of an intentional duplicitous nature of a government saying one goal for the international community and another one for the domestic group.

The actual changes of the border included 50 additional customs staff agents, new buildings, cameras and other support equipment.¹⁸⁸ The changes were to take place in two phases. The first phase began in July 2011 and included the additional agents being placed on the border.¹⁸⁹ The EC stated that it was up to the Denmark government to prove the changes would comply with all of the EU treaties that had been agreed to by the Danes under the SC.¹⁹⁰

Before any of the new changes were even implemented, the EU and the rest of the Schengen nations worried about the implications of additional border scrutiny at the internal border policies that Denmark was planning. Once phase 1 began, the EU sent representatives to assess the changes and determine if Denmark was violating the EU rules. The eight delegates failed to fully evaluate the changes since they did not observe

¹⁸⁶ Munkøe, “The 2011 Debacle over Danish Border Control,” 16.

¹⁸⁷ Ibid.

¹⁸⁸ Hobbing, “Farewell,” 1.

¹⁸⁹ Ibid.

¹⁹⁰ Munkøe, “The 2011 Debacle over Danish Border Control,” 16.

any agents active on the border, Danish authorities claimed that the infrequent nature of the inspections further validated their plans.¹⁹¹

The EC did not believe that the increase was needed; however they did not prevent the Danish government from continuing the planned rollout of the increased border security.¹⁹² From the beginning of the announcement of the increased border security there were members in the EU that did not believe the changes were legal under the SC and stated this to the Danish government on several occasions.¹⁹³ The next phase of the plan was not implemented by the Danish government. The September 15, 2011 election gave a new group the lead in Denmark's parliament. One of the first priorities for the Social Democrats was to reverse all of the changes that the previous party had started in the border.¹⁹⁴

C. ELECTION IN DENMARK

The election changed the dynamic of the parliament, giving the center-left Social Democrats and other similar minded liberal parties 89 seats.¹⁹⁵ That left only 86 seats for the center right groups, including the Venstre and DV parties.¹⁹⁶ This ended a decade of control by right-leaning parties. The economy was the fundamental issues raised during the election and the right-leaning incumbents were trailing two-three percentage points until the election.¹⁹⁷ The final results were not as severe as anticipated when the Venstre Party was able to slightly close the gap.

¹⁹¹ "Border Row: Denmark Gets a Taste of its Own Medicine," *IceNews: From the Nordics*, July 29, 2011, <http://www.icenews.is/2011/07/29/border-row-denmark-gets-a-taste-of-its-own-medicine/>.

¹⁹² Hobbing, "Farewell," 2.

¹⁹³ Munkøe, *The 2011 Debacle over Danish Border Control*, 11.

¹⁹⁴ "New Government Reopens Schengen," *Presseurop*, October 5, 2011, <http://www.presseurop.eu/en/content/news-brief/1024491-new-government-reopens-schengen>.

¹⁹⁵ Malthe Mikkel Munkøe, "Denmark after the Election," *Academia*, September 2011, http://www.academia.edu/1469938/Denmark_after_the_Election.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

The changes were not long lasting and many of the planned alterations could not be assessed by the rest of the European community. After the Danish border changes were announced in May 2011, there was a significant concern around Europe that this increase in border enforcement would change the SC and undo all of the cooperative benefits that the Schengen had striven to deliver. Throughout the ordeal, Denmark raised the border security higher than other nations but did not close the border as the initial announcement promised. The most significant aspect of the experiment in Denmark is the amount of sovereignty shown to remain with each of the SC nations. Although the open border is the primary function of the agreement, nations can and do increase their internal security when needed.¹⁹⁸

D. CONCLUSION

Denmark's long history includes many examples of multinational cooperation. The latest example was inclusion of the Schengen Convention in 1996. In 2011, Denmark exercised its option to include additional border security for its internal borders despite having other SC nations surrounding it on all sides. This temporary surge did not receive positive support around Europe and was not fully evaluated by the rest of the EU to be in compliance or against the SC. The results of the changes were too short to observe any change in security or safety levels inside the country or to observe a change to surrounding states. The significant take-away from this event is the understanding of domestic politics on the international stage and the understanding that local politics may not understand the impacts of the changes.

Denmark has political obligations that must be balanced between both the EU community as trading partners and the internal politics that every nation is responsible for. The national government may not anticipate the implications of changes at one level of government across another. The larger international community must cooperate with its allies in order to properly understand and support the needs of its partners and commercial interests.

¹⁹⁸ Martin W. Lewis, "The End of Schengenland?,"

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VI. CONCLUSION

This thesis examines threats and responses in U.S.-Canadian border security, and compares the U.S.-Canada border relationship with that of the European Schengen Convention. The U.S. and Canada present an interesting case study of mutual cooperation in border security for more than 200 years. The collaboration changed in some ways after 9/11; however, there remains a strong level of interaction between the two nations.

Chapter II of the thesis described at the defensive tools at the border between the U.S. and Canada. Multiple technological advances including UAVs, sensors, and other systems are also in place across the border and focus on prevention of people and contraband illegally crossing the border. In addition the U.S. border patrol under the authority of the DHS provides personnel to physically guard the border. The threats include drugs, various weapons, and terrorists. Each of the weapon systems provides different challenges to detect by the groups working to preserve the integrity of the border. Canada and the U.S. must continually reevaluate the technology in order to counter the ever-evolving threats along the border. The border is an area of commerce as well as conflict. The U.S. must continually track the adversarial technologies and adapt in order to protect and enforce the border.

Chapter III examines the history of the U.S. and Canada from 1776 until present day to understand the current relationship between the two nations. There are policies in place across the U.S.-Canadian border to keep all of the agencies coordinated and ensure safe commerce in both directions. The U.S. and Canada continued to bond after Canada separated from Great Britain. After WWII, the bond grew even stronger, as the common enemy of the USSR allowed the two states to work towards mutual peace on the North American continent and a strong level of mutual defense. The USSR did not directly threaten Canada, but its commercial interests were tied with the western world so an alliance with the U.S. made the most sense. Until 9/11, the U.S.-Canadian border was essentially an open border with few requirements for citizens of the two nations to cross back and forth. Despite the U.S. inclination to take over the border security unilaterally,

the two nations collaborate to share the burden of security to ensure safety for their citizens.

After 9/11 border regulation and defense grew more intensive, however commercial relations between the states have remained strong. To further protect the two states, each country created a large organization that works to coordinate national defense and the multiple agencies that are necessary to protect the nation. In the U.S., DHS works with representatives from law enforcement, military and civilian entities. Threats include weapons, drug dealing entities and terrorist groups. All of the challenges must be met to protect the border. On the Canadian side, Public Safety Canada (PSC) leads homeland security.

The bond between the U.S. and Canada prior to the attack of 9/11 can be compared to that of the Schengen Convention (SC), in which the focus is on securing external borders, while leaving borders between member countries relatively open. But since 9/11 there has been an increased emphasis on stepping up security along the U.S.-Canada border. Some experts, especially in the U.S., argue that border security needs to be tightened further, while others, often in Canada, argue that attempts to increase security along the U.S.-Canada border are unnecessary and harmful toward trade and commerce.

Chapter IV traced the steps that Europe took in order to create the current Schengen border system. In 1985, five nations set up a large area with all of the internal borders removed for goods and people to travel between once they had permission to enter the “Schengen area.” This system eventually enlarged to include 26 nations in the Europe. Many of the participants are members of the EU as well. Features of the Schengen include a border agency that coordinates with member countries called FROTTEX and an information system that is shared throughout the region called the Schengen Information System (SIS), currently in its second iteration. All of the functions of the SC are currently managed by the European Council. The fundamental part of the agreement is the open borders and lack of controls for the nations to allow for people to travel, live and work anywhere inside the agreed area. In order to create this level of cooperation, it is critical for the nations to collaborate on the international issues that

compromise the agreements and find solutions that properly balance the needs of each nation with the larger needs of the collective.

Chapter V looked at the situation that took place in 2011 in Denmark. Europe had instituted the Schengen Convention to have open borders between participating nations. The convention allows for goods and people to travel freely between the participating areas, with few, if any, internal border controls. In 2011, however the Danish government made the unilateral decision to increase security for its internal borders, rejecting the argument that Danish security could be ensured through reliance on external border security on the part of Schengen nations. The Danish move represented a kind of “natural experiment,” putting into place increased security measures similar to those advocated by some for the U.S.-Canadian border.

Although the Danish decision was soon rescinded, the lessons of this brief experiment in increased border security are that homeland security decisions are often based more on arguments about sovereignty and politics, rather than on objective determinations of threats and security. The decision to increase the border controls came from a desire from the leading party in Denmark to change an economic policy that was a priority for the group. However, they did have the political strength to alter the policy—regarding pension without support of a smaller right-wing political party that was concerned with security and reducing immigration. To get the support for the pension change, the leading party agreed to increased border enforcement. This temporary surge did not receive positive support around Europe. The change in border policy was too short-lived and not fully implemented to produce any traceable change in security for the Danish homeland. However, the Danish did discover that local and international politics do not operate in separate realms and the effects of one political sphere can spread across many layers of government. This may not be an intended consequence of any changes, but must be anticipated and planned for in a growing international arena. An additional take-away is the understanding that homeland security decisions are often more political than substantial and must be properly balanced between the commercial cost and the political one.

The Danish government is not the only European nation to test the limits of the Schengen Convention. In February 2014, Switzerland voted to increase immigration enforcement within its nation. It is too early to discover the level of change this may have on the larger European community and the SC, but it is another example of how a nation's domestic homeland security policies have an effect on the international level. Denmark did not retain any of the border changes that the administration started in 2011 after a new leading party reversed the course. Switzerland's current changes may provide additional insight to the stability and future of the Schengen Convention, and show the North American nations whether it is possible for states to cooperate and still remain members of the cooperative international markets within the EU and the larger economic zones as the internal pressures call for greater isolations and immigration controls.

The lessons of the Danish experiment and the understanding of domestic politics impacting the international community pertains to the U.S.-Canadian relationship today. The segment of the Danish government that called for increasing the border did not concern themselves with impact beyond the edges of Denmark. They wanted a decrease in a perceived threat from immigrants and criminals and are not worried about rising costs due to border inspections and related fees. The impact of the local changes on international politics can be difficult to predict, but these changes must be studied and allies should be considered.

Applying these lessons to the U.S. and Canada can help two nations that have prospered under an open border for much of their history. Despite calls for increased border security since the 9/11 attacks, the Schengen Convention offers of a model of how the US and Canada can benefit from returning to an open internal border and push the threat as far from the mainland as possible. As in Europe, an open and cooperative border can function and even succeed to keep people and contraband out of the two nations while helping commercial interests succeed. Our nation's goal should be to return the U.S.-Canadian border to its status as the longest undefended border in the world.

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