

SDA Roundtable Report

Fine-tuning EU Border Security



A ***Security & Defence Agenda*** Report

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CONTENTS

<u>Programme</u>	<u>p.2</u>
<u>Report</u>	<u>p.3</u>
<u>What are the EU's borders?</u>	<u>p.3</u>
<u>What is smart border management?</u>	<u>p.4</u>
<u>What role for the EU and its member states?</u>	<u>p.6</u>
<u>What role for technology?</u>	<u>p.7</u>
<u>Bridging internal and external security</u>	<u>p.7</u>
<u>Conclusion</u>	<u>p.8</u>
<u>List of Participants</u>	<u>p.9</u>
<u>About the SDA</u>	<u>p.15</u>
<u>Partner</u>	<u>p.16</u>

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Fine-tuning EU border security

Roundtable –September 29, 2010

Bibliothèque Solvay, 12:00-16:00

Keynote speaker

Stefano Manservigi, Director General for Home Affairs, European Commission

Session I - 12:00-13:30

The European dimension of border security

Europe's free movement of people and the borderless Schengen zone has seen a growing emphasis on policing the EU's external borders. But it is far from clear whether the policy responses of national governments and of the EU institutions themselves have been cost-effective or indeed effective at all. What methods seem best suited to stemming illegal immigration and addressing organised criminal activities like drug smuggling and human trafficking? With EU policymakers concerned to standardise practices that range from the repatriation of undesirables to personal passenger data, what level of EU-wide coordination is desirable?

Speakers

W. Ralph Basham, former Commissioner US Customs and Border Protection, Command Consulting Group

Giovanni Buttarelli, Assistant Supervisor, European Data Protection Supervisor (EDPS)

Session II - 14:30-16:00

Beyond border controls: what are Europe's strategic aims?

Tightening up the border security procedures needed to protect EU citizens is one thing, deciding who and what they are being protected against is quite another. How much consensus is there in the EU27 on migration policies best suited to Europe, and what needs to be agreed on if the EU is to have a coherent approach to its long-term demographic problems and skill shortages? Are the EU institutions giving a clear political lead on a future European border strategy, and what should the policy agenda now look like?

Speakers

Jean Louis De Brouwer, Director for Migration and Borders, Directorate General for Home Affairs, European Commission

Roland Genson, Director for Police and Customs Cooperation, Schengen, Directorate General for Justice & Home Affairs, Council of the European Union

Moderator: Giles Merritt, Director, Security & Defence Agenda

Fine-tuning EU border security



Introduction

On September 29, the Security & Defence Agenda hosted a roundtable debate bringing together key voices on border security from both sides of the Atlantic. Together, they discussed the changing function of borders and assessed the EU's ability to turn its internal and external borders into intelligent filters, which facilitate commerce and exchange within a wider security network.

Participants were unanimous in acknowledging the need for inter-departmental cooperation at all levels of governance to improve border security. Yet before this cooperation can take form, key priorities must be formulated into a coherent strategy. This strategy needs to accommodate the balance between openness, security, and personal privacy. It must internalize threats which begin on the other side of the globe. It must also harness technological solutions and put them at the service of principled objectives.

“Does it make any sense to speak about borders in a globalized world?”

Much of the debate centred on how tackling such challenges requires an adequate balance of national and European border initiatives. Participants

often disagreed over the best method of harmonizing these contrasting priorities, with both top-down and bottom-up methods proposed.

What are the EU's borders?

When defining borders, numerous suggestions were put forward by the panel. Variations included “the first interaction with third countries,” “the last line of defence,” “a way to control people,” and even “an anachronism”. Some common distinctions emerged: borders are an opportunity for monetary gain (whether licit or illicit); a frustrating barrier to trade; the first chance to apply national law; and a fundamental component of global security.

Addressing these themes **Jean-Louis De Brouwer**, Director for Immigration and Borders at the Directorate General for Home Affairs of the European Commission, asked the fundamental question, “Does it make any sense to speak about borders in a globalized world?” Considering the diverse views of the speakers as to the nature of Europe’s borders, the suitability of approaching border controls from an institutional, rather than national, level was called into question.

Yet despite this controversy, the conclusion of the roundtable was that borders are vital to the economic and security functions of the EU. The fact that they create such a wide range of expectations makes their efficient management all the more important, so that the concerns and priorities of individ-



ual EU members can be balanced with the values of those who maintain them. Border security regimes are thus a product of the states and institutions that design them, and their effectiveness can be measured in terms of the quality of this design.

What is smart border management?

Openness and security quickly emerged as the top priorities in border management. Participants emphasized that the two are not mutually exclusive and the need to identify measures which enhance both simultaneously. In his opening remarks, **Ralph Basham**, former US Commissioner of Customs and Border Protection, told of a comparative scenario from the United States which underlined how the two can seem incompatible when the system is put under strain.

He explained how the security blanket which was laid over US borders on September 12th, 2001 strangled the US economy at a cost of billions of dollars. Borders were closed bluntly, without making use of intelligent targeting mechanisms. All incoming traffic was treated as a potential threat.

The first lesson was that the outside world holds not only security threats but also the keys to economic prosperity and social harmony. The second was that national security necessitates new forms of international cooperation, especially information sharing. The third lesson, a recurring theme

throughout the debate, concerned inter-departmental cooperation at the national level and how to institutionally rationalize border security.

With these elements in place an information network becomes possible that provides customs and border officials on the ground with “actionable” intelligence while facilitating the free flow of goods and people. In short, the border becomes “smart”.

“We are a union that is open to the rest of the world, and a global player on the world stage. We are not a fortress.”

Unfortunately, a smart border is not necessarily ethical, non-discriminatory, or consistent with the values of the land on which it exists. As **Stefano Manservigi**, Director General for Home Affairs at the European Commission, argued in his keynote address, Europe's borders must be managed in keeping with its core principles. Borders are the first point of entry; they are meant to protect but also to receive properly those who cross them legally and facilitate their travel to the EU. While borders are almost always discussed in the context of security alone, their management should actually take multiple facets into account, such as openness to the world and promotion of the interest of the EU. “We are a union that is open to the rest of the world, and a global player on the world stage”

Fine-tuning EU border security



he said, "We are not a fortress". The new Director General recalled that border management needs to respect fundamental rights and that an effective border policy must be consistent with the principle of solidarity among Member States.

Giovanni Buttarelli, Assistant Supervisor at the European Data Protection Supervisor (EDPS) continued on that theme, arguing that "all measures related to border management must comply with data protection law." He advocated a more streamlined 'Select Before You Collect' approach to data collection, to minimize unnecessary expense and intrusion. A further priority must be the formation of an integrated legal approach to data protection. National and European law, Buttarelli affirmed, must be coherent.

Using the example of his journey from Jordan to the conference as an illustration, border security expert Mohamed-Raja' Barakat questioned the reality of this "smart" system under Europe's current border regime. Barakat had been searched by officials four times on his journey, leading him to ask the participants to understand the realities of selection criteria based on countries of origin. "We don't have only terrorists," he opined, "we don't have only people who want to leave their countries to come live here."

Beyond the challenge of aligning border security measures with Europe's values, there are practical considerations which must be overcome. **Roland Genson**, Director of Police and Customs Coopera-

tion and Schengen at the Directorate General for Justice and Home Affairs of the General Secretariat of the Council of the European Union, spoke of how Europe's policing efforts are becoming integrated in terms of both operational coordination and information exchange, and how this is changing under the Lisbon treaty compared to previous advances.

Under Schengen, it was clear that external border security was considered necessary to lift internal border controls. As a result of the Schengen integration under the Amsterdam Treaty, "border security," he explained, "became community business. The rest of security remained in the inter-governmental sphere. There was a lack of coherence between the two policy fields." However, whereas the internal security strategy as approved in 2010 provides only very general orientations and guidelines, it remains to be seen whether its implementation, expected by 2014, will have a more concrete operational dimension, containing clear directions for police officers and border guards.

For instance, on information exchange, Genson indicated there was much work left to be done. The principle of availability, which stipulates that information available to law enforcement services in one member state should be available to law enforcement services in all member states under the same conditions of access and use, has yet to be fully realized in spite of a 2006 deadline. The reason for this, he asserted, is that national law enforcement information systems are not designed



on a basis of transnational interoperability criteria”, also due to a lack of standardisation in data storage and exchange techniques as experienced under the Prüm treaty.

Therefore, in addition to determining what types of information exchange are desirable, strategic decisions must also be made which render more information exchanges possible. The EU must strive to create a security framework which allows for the exchange of information and enables individual member states to internalize threats which emerge in others.

What role for the EU and its member states?

The roundtable turned to identifying ways in which border security can be more effectively rationalized, both at EU level and amongst the institutions of member states. Exploring this theme, participants outlined the key elements of a common security strategy which would enable member states to share vital security information internally whilst remaining confident in the security measures implemented on all of the EU's external borders.

A critical issue identified in terms of internal harmonization is that “border security” is often treated incoherently at national level, making cohesion at the EU level very difficult. Border security is a coordinated effort amongst a panoply of regulatory authorities, both EU and national, but how these authorities are organized and what their prerogatives

are varies from state to state. The result is an incoherent mass of regulation which presents a costly hurdle for legitimate businesses such as airlines who need to provide different passenger data for every country they serve. A common market should imply common borders and eventually common protocols to be applied on those borders.

De Brouwer was adamant that there were significant operational gains to be made through improved national coordination and more efficient information management before even considering approaching politically sensitive areas such as personal data collection. This was needed both at EU and national level, between the services in charge of the control on goods and the one in charge of the control of persons, as well as police forces.

He argued that the Commission could work to create a framework for information-sharing and cooperation among member states. Improving competence at the national level through institutional rationalization would also go a long way towards creating the level of trust which is an essential precondition to the further lifting of internal barriers to the free movement of goods and European citizens.

To achieve this, Europe could either attempt to push harmonized regulation into place from the top down, or to create a coherent framework in which national governments can communicate and cooperate more effectively. The reality is likely to be a mixture of the two. With regard to operational coordination at EU level, Genson suggested the oper-

Fine-tuning EU border security



ating principle ought to be, “Before trying to coordinate all security actors in Brussels, you need to make the effort to coordinate them at home,” echoing for greater coherence at the national level.

Genson was also clear in identifying the need for standardization. This could prove to be a politically benign area where the Commission could focus its efforts, and help to lay the groundwork for a more integrated European security network in the future.

What role for technology?

The effective use of new technologies can help strengthen trust among member states. However, while these technologies improve border management, their use brings up a whole series of questions.

Buttarelli discussed new uses for technology as part of an overall plea for the judicious use of all types of measures which could infringe upon personal privacy. He questioned the logic of implementing new ways of collecting and distributing information when those in place (eg. Schengen Information System) and the impact of the levels of access granted to different agencies has yet to be properly assessed. The roundtable agreed that the employment of new technologies and the collection of information for security purposes cannot be an end in itself. There is still a great deal of work to be done in terms of integrating existing systems in order to make them compatible before moving on.

Jack Johnson, of PwC, described new technology as a “back-end” solution which could not work effectively without extensive political work on the “front-end”. This echoed the De Brouwer’s sentiments, who said he often found himself at a loss when asked to explain how biometrics could mean more freedom if properly used.

The political challenge is to take the potential for misuse or overuse of technology into consideration

“Before trying to coordinate all security actors in Brussels, you need to make the effort to coordinate them at home,”

while setting out a concrete strategy. As Stefano Manservigi put it, “Actions are only credible if there is a strategy.”

Bridging internal and external security

Throughout the debate, speakers and participants also considered the impact of national and European decisions on third-countries. With business interests clearly focused on coherent forms of harmonization and security interests arguably dependent on new forms of international cooperation, SDA Director **Giles Merritt** asked if “we are too focused on making our internal security coherent and not



enough on looking at things in relation to the whole wide world out there?” Basham responded that the question of whether the EU should focus on internal homeland security or global security is, “a distinction without a difference.” Continuing, Manservisi asserted that in a global context, “security cannot exist in isolation.”

The roundtable then focused on the need to sys-

“Are we too focused on making our internal security coherent and not enough on looking at things in relation to the whole wide world out there?”

tematically engage in third party dialogue. It was noted that templates for success already exist, with Spain's development efforts in Morocco receiving particular attention. In this programme, Moroccan development is treated as a precondition to relaxing pressures on the Spanish border. A coherent EU border strategy must facilitate legitimate travel and trade by ensuring shorter waiting times and relaxed document requirements for registered travellers. It must recognize Europe's demographic shift and the need to balance its labour market deficit through a tailored immigration policy, taking into account the fears of domestic populations and their political implications.

Conclusion

Whilst a common European border strategy is still being formulated the roundtable suggested that this will not only be a security strategy, but will need to balance Europe's reliance on openness in an increasingly interconnected world.

The debate emphasized the need for consistency with the principles upon which the EU is founded. There is still much work to be done at the institutional level in order to ensure the level of trust necessary for the continued free movement of goods and people throughout the EU. It is this combination of rationalization of national institutions with a focus on transnational interoperability which will create truly smart borders.

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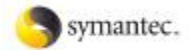
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