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**How the United States Coast Guard might conduct expedited border crossings on the Great Lakes in cooperation with Canadian authorities and law enforcement. Specifically addressing how current agreements and policies may be utilized in order to expedite border crossings on the great lakes and additional measures which can be taken to specifically address the matter through express agreement**

Timothy R. Bierer

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CASE WESTERN RESERVE  
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MEMORANDUM FOR THE UNITED STATES COAST GUARD

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ISSUE: HOW THE UNITED STATES COAST GUARD MIGHT CONDUCT EXPEDITED BORDER CROSSINGS  
ON THE GREAT LAKES IN COOPERATION WITH CANADIAN AUTHORITIES AND LAW ENFORCEMENT

SPECIFICALLY ADDRESSING HOW CURRENT AGREEMENTS AND POLICIES MAY BE UTILIZED IN ORDER  
TO EXPEDITE BORDER CROSSINGS ON THE GREAT LAKES AND ADDITIONAL MEASURES  
WHICH CAN BE TAKEN TO SPECIFICALLY ADDRESS THE MATTER  
THROUGH EXPRESS AGREEMENT

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**Spring Semester 2015**

## TABLE OF CONTENTS

Bibliography of Sources.....	iii
I. Introduction .....	1
Background of the Issue and Approach of the Paper.....	1
II. Summary of Conclusions .....	3
A. Method 1 (recommended): The expedited border crossings for non-routine law enforcement and environmental responses can be most effectively done by means of expanding the scope of the existing Shiprider agreement. ....	3
B. Method 2 (backup): A new treaty is the recommended course of action if Method 1 is insufficient to effect the border crossings or in case Method 1 is deemed to overreach the current agreements. ....	5
III. Overview of Statutory Authority.....	6
A. Maritime Law Enforcement.....	6
B. Environmental Response .....	7
C. Amendment of Existing Shiprider Agreement.....	7
D. Cooperation with Other Agencies .....	8
IV. Methods for Effecting Expedited Cross-Border Assistance on the Great Lakes.....	8
A. Method 1: Use and Possible Amendment of the Existing Shiprider Agreement and Personnel Exchange Programs .....	9
1. How can a state and a province, in conjunction with the national government, agree to a plan that authorizes assets to cross the border in a timely manner? .....	10
2. Are there any local authorities to authorize a state-to-province agreement for streamlining border crossings?.....	10
3. What are the federal authorities applicable to a similar agreement at the federal level? .....	11
4. Can a comprehensive agreement be created?.....	12
5. What are the limits to such a federal agreement?.....	12
6. Who must be signatories to the federal agreement? .....	14
7. What level of government would need to approve such a federal agreement?.....	14
B. Method 2: New Treaty Agreement to Supplement Shiprider .....	15
1. How can a state and a province, in conjunction with the national government, agree to a plan that authorizes assets to cross the border in a timely manner? .....	16
2. Are there any local authorities to authorize a state-to-province agreement for streamlining border crossings?.....	17
3. What are the federal authorities applicable to a similar agreement at the federal level? .....	17
4. Can a comprehensive agreement be created?.....	18

5.	What are the limits to such a federal agreement?.....	18
6.	Who must be signatories to the federal agreement? .....	19
7.	What level of government would need to approve such a federal agreement?.....	19
V.	The Methods Applied to Law Enforcement and Environmental Response Scenarios .....	20
A.	Law Enforcement .....	20
B.	Environmental Response .....	21
VI.	Drawbacks to an Expanded Shiprider Program Under Either Method .....	23

## Bibliography of Sources

- Source 01: Ademun Ademun-Odeke, *Jurisdiction by Agreement Over Foreign Pirates in Domestic Courts: In re Mohamud Mohamud Dashi & 8 Others*, 24 U.S.F. Mar. L.J. 35 (2011-12).
- Source 02: Administration of Coast Guard and Navy Officers Assigned to the Coast Guard/Navy Officer Exchange Programs, Commandant Instruction 1000.5F (June 9, 1988).
- Source 03: Alain Lang, *U.S. Coast Guard, Royal Canadian Mounted Police to Sign Regional Agreement to Combat Crossborder Crime, Eastport, Maine* (April 7, 2014), <http://www.rcmp-grc.gc.ca/nb/news-nouvelles/releases-communiques/14-04-07-162324-eng.htm> (last visited March 14, 2015).
- Source 04: Canada-United States Joint Marine Pollution Contingency Plan (2003).
- Source 05: Canada-United States Law Journal, *Balancing Canada-United States Security and Economic Competitiveness: The Great Lakes and St. Lawrence River*, 34 Can.-U.S. L.J. 249 (2008).
- Source 06: Commandant; General Powers, 14 U.S.C. § 93 (2014).
- Source 07: Constitution of the United States of America.
- Source 08: Cooperation with Other Agencies, 14 U.S.C. §§ 141-153 (2014).
- Source 09: Department of Foreign Affairs, Trade and Development Act (S.C. 2013, c. 33, s. 174).
- Source 10: Embassy of the United States, Ottawa, Canada, 16 April 2014: *U.S.-Canadian "Shiprider" Training Integrates Crew, Combats Cross-Border Crime*, <http://canada.usembassy.gov/news-events/2014-news-and-events/april-2014/16-april->

2014-u.s.-canadian-shiprider-training-integrates-crew-combats-cross-border-crime (last visited March 15, 2015).

Source 11: Endangered Species Act, 16 U.S.C. § 1536 *et seq.* (2014).

Source 12: Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations Between the Government of Canada and the Government of the United States of America (May 26, 2009).

Source 13: James A. Wood, *The Good Neighbors and Their Undefined Fence: US-Canadian Cross-Border Military Excursions Before the First World War*, AM. REV. CAN. STUD., Vol. 43, No. 1, 49–69 (2013).

Source 14: Joint United States-Canada Projects for Alternative Inspections Services, 8 U.S.C. § 1753.

Source 15: Joseph E. Kramek, *Bilateral Maritime Counter-Drug and Immigrant Interdiction Agreements: Is This the World of the Future?*, 31 U. Miami Inter-Am. L. Rev. 121 (2000).

Source 16: Law Enforcement, 14 U.S.C. § 89 (2014).

Source 17: Magunson Act, 16 U.S.C. § 1801 *et seq.* (2014).

Source 18: Matthew K. Grashoff, *Building Fences Together: The EU's Lessons for the U.S.-Canada Perimeter Security Plan*, 37 Can.-U.S. L.J. 517 (2012).

Source 19: Ports and Waterways Safety Act, 33 United States Code § 1221 (2014).

Source 20: Powers of Immigrations Officers and Employees, 8 U.S.C. § 1357 (2014).

Source 21: Procedures for Negotiating and Concluding International Agreements, Commandant Instruction 5710.3 (March 19, 2002).

Source 22: Royal Canadian Mounted Police Act, R.S.C., 1985, c. R-10.

- Source 23: Royal Canadian Mounted Police, *Officer Exchange Program Underway in Hamilton Area* (February 12, 2013), <http://www.rcmp-grc.gc.ca/on/news-nouvelles/2013/13-02-12-hamilton-eng.htm> (last visited March 15, 2015).
- Source 24: Rush-Bagot Treaty of 1817.
- Source 25: Saving Life and Property, 14 U.S.C. § 88 (2014).
- Source 26: Steve de Eyre, *The Prospects for a North American Security Perimeter: Coordination and Harmonization of United States and Canadian Immigration and Refugee Laws*, 35 Can.-U.S. L.J. 181 (2011).
- Source 27: U.S. Coast Guard Boat Operations and Training (Boat) Manual, Vol. 1, COMDTINST M16114.32C (2013).
- Source 28: United States Department of State, *U.S. Department of State Foreign Affairs Manual Volume 5, Handbook 1: Correspondence Handbook, 5 FAH-1 H-610: Using Diplomatic Notes* (2013).

## I. Introduction

The questions presented and answered within this paper are:

The U.S., Canada, and their states and provinces that border the Great Lakes meet regularly to address cross-border issues. One such issue is how a state and a province, in conjunction with the national government, can agree to a plan that authorizes assets to cross the border in a timely manner. Are there any local authorities to authorize a state-to-province agreement for streamlining border crossings? What are the federal authorities applicable to a similar agreement at the federal level? Can a comprehensive agreement be created? If so, what are the limits to such an agreement? Who must be signatories? What level of government would need to approve such an agreement?

Section I of this paper will provide an overview of the relevant facts. Section II will provide a brief summary of the conclusions drawn. Section III will detail the United States Coast Guard's ("USCG") and the Royal Canadian Mounted Police's ("RCMP") statutory authority for acting in the manners proposed. Section IV will detail the two proposed methods for effecting the expedited border crossings. Section V will apply both methods to possible scenarios where such expanded border crossings might be beneficial. Section VI will detail some of the potential drawbacks involved in expanding the existing border-crossing agreements.

### Background of the Issue and Approach of the Paper

This question arises from the USCG's interest in providing cross-border assistance on the Great Lakes in cooperation with Canada, especially with the RCMP. As indicated in the question presented, states, provinces, and the United States and Canadian federal governments often meet to discuss maritime issues in the Great Lakes. One issue discussed is how the states, provinces, and countries could provide cross-border assistance to one another. However, no comprehensive agreement has been reached addressing the specific issue at hand. An agreement



known as “Shiprider”<sup>1</sup> has been signed by the USCG and the RCMP through their respective delegated authorities,<sup>2</sup> which allows for specially trained officers from both countries to be present on vessels crossing the US-Canadian border in the Great Lakes.<sup>3</sup> The Shiprider program was piloted in 2005 and became a permanent program following the signing of the Framework Agreement,<sup>4</sup> which preceded the current Shiprider agreement.<sup>5</sup> This development stemmed from a history of cooperation between the countries in customs and other matters.<sup>6</sup>

The Shiprider agreement allows joint operations to be undertaken by joint crews patrolling specific border areas of interest.<sup>7</sup> The Shiprider agreement between the United States and Canada is not unique, but instead is one of many such agreements between differing nations.<sup>8</sup> A common feature is that these agreements include provisions in which the presence of officers from both participating nations allows the vessel upon which they are carried, regardless of which side of the border it is on, to carry out operations as normal.<sup>9</sup> This is possible because

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<sup>1</sup> Eastern Region International CrossBorder Maritime Law Enforcement Operations (April 8, 2014). This simply represents the codified version of the Framework Agreement referenced at note 4 below, and the Framework Agreement will be the document referred to herein as “Shiprider.” [Electronic copy provided in accompanying flash drive at Source 12].

<sup>2</sup> Alain Lang, *U.S. Coast Guard, Royal Canadian Mounted Police to Sign Regional Agreement to Combat Crossborder Crime, Eastport, Maine* (April 7, 2014), <http://www.rcmp-grc.gc.ca/nb/news-nouvelles/releases-communiques/14-04-07-162324-eng.htm> (last visited March 14, 2015). [Electronic copy provided in accompanying flash drive at Source 03].

<sup>3</sup> Source 12, *supra* note 1, at arts. 6, 7.

<sup>4</sup> Framework Agreement on Integrated Cross-Border Maritime Law Enforcement Operations Between the Government of Canada and the Government of the United States of America (May 26, 2009). [Electronic copy provided in accompanying flash drive at Source 12].

<sup>5</sup> Embassy of the United States, Ottawa, Canada, *16 April 2014: U.S.-Canadian “Shiprider” Training Integrates Crew, Combats Cross-Border Crime*, <http://canada.usembassy.gov/news-events/2014-news-and-events/april-2014/16-april-2014-u.s.-canadian-shiprider-training-integrates-crew-combats-cross-border-crime> (last visited March 15, 2015). [Electronic copy provided in accompanying flash drive at Source 10].

<sup>6</sup> Joint United States-Canada Projects for Alternative Inspections Services, 8 U.S.C. § 1753. [Electronic copy provided in accompanying flash drive at Source 14].

<sup>7</sup> Source 10, *supra* note 5.

<sup>8</sup> Joseph E. Kramek, *Bilateral Maritime Counter-Drug and Immigrant Interdiction Agreements: Is This the World of the Future?*, 31 U. Miami Inter-Am. L. Rev. 121 (2000). [Electronic copy provided in accompanying flash drive at Source 15].

<sup>9</sup> Ademun Ademun-Odeke, *Jurisdiction by Agreement Over Foreign Pirates in Domestic Courts: In re Mohamud Mohamud Dashi & 8 Others*, 24 U.S.F. Mar. L.J. 35, 57-58 (2011-12). [Electronic copy provided in accompanying flash drive at Source 01.]

the command of the vessel switches automatically according to on which side of the border the vessel is located.<sup>10</sup> This agreement is a useful tool for law enforcement on the Great Lakes, and the USCG seeks to expedite border crossings so that such assistance can be rendered to the RCMP, and vice-versa, for a) law enforcement incidents beyond the existing joint patrols or b) in response to an environmental incident such as an oil spill. These two hypothetical situations will be the lenses through which the practical application of the proposed methods detailed below will be presented and analyzed.

## II. Summary of Conclusions

This paper will develop the basic conclusions explained in this section, offering steps and methods as to two alternative methods: 1) expansion of the existing Shiprider agreement; or 2) creation of a specific treaty addressing the situations of non-patrol law enforcement actions or environmental concerns. Section III will then analyze the sub-questions within the question presented as they would operate under each of these two methods.

A. Method 1 (recommended): The expedited border crossings for non-routine law enforcement and environmental responses can be most effectively done by means of expanding the scope of the existing Shiprider agreement.

The most effective method for expediting border crossings is to leverage the existing Shiprider agreement and personnel exchange programs within the USCG, RCMP, and the respective state and provincial agencies.<sup>11</sup> State and provincial officers must be properly trained in order to participate.<sup>12</sup> This can be done by establishing permanent billets for properly trained

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<sup>10</sup> Source 12, *supra* note 1, at art. 4.

<sup>11</sup> Source 12, *supra* note 1, at arts. 6, 7.

<sup>12</sup> Source 12, *supra* note 1, at art. 6(8).

RCMP and other personnel at strategic USCG stations and vice-versa, and trained local authority personnel can be used to reduce the staffing burden on USCG and RCMP forces.<sup>13</sup> The Shiprider agreement can be amended to accommodate or codify alterations to the existing agreement if both parties agree and it is deemed expedient.<sup>14</sup>

Concerning the questions presented, under this method, the existing Shiprider agreement is sufficient for the expanded operational capacity. While states and provinces cannot engage in cross-border agreements themselves,<sup>15</sup> they could be involved in the implementation thereof by providing officers for training and accompanying reasonable tuition costs.<sup>16</sup> Such trained local officers would be able to participate in personnel exchange programs<sup>17</sup> to crew the expanded Shiprider operations under the direction of the USCG and the RCMP.<sup>18</sup> These agency agreements, combined with the existing Shiprider agreement, could create a cohesive agreement in the aggregate without involvement of high levels of government which Method 2 requires.

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<sup>13</sup> Source 12, *supra* note 1, at arts. 6, 7.

<sup>14</sup> Source 12, *supra* note 1, at art. 19(2).

<sup>15</sup> U.S. Const. Art II, § 2, Cl. 2 [Electronic copy provided in accompanying flash drive at Source 07]; Department of Foreign Affairs, Trade and Development Act § 10 (S.C. 2013, c. 33, s.174) [Electronic copy provided in accompanying flash drive at Source 09].

<sup>16</sup> Source 12, *supra* note 1, at art. 6(8).

<sup>17</sup> Administration of Coast Guard and Navy Officers Assigned to the Coast Guard/Navy Officer Exchange Programs, Commandant Instruction 1000.5F (June 9, 1988). [Electronic copy provided in accompanying flash drive at Source 02]. While this agreement pertains to Coast Guard and Navy officers in the United States, it does set precedent for exchange programs which could be created using this precedent. The Coast Guard has the power to create international agreements which could be utilized in order to create an international exchange program. Procedures for Negotiating and Concluding International Agreements, Commandant Instruction 5710.3 (March 19, 2002). [Electronic copy provided in accompanying flash drive at Source 21]. The Royal Canadian Mounted Police also have precedent for exchange programs. Royal Canadian Mounted Police, *Officer Exchange Program Underway in Hamilton Area* (February 12, 2013), <http://www.rcmp-grc.gc.ca/on/news-nouvelles/2013/13-02-12-hamilton-eng.htm> (last visited March 15, 2015). [Electronic copy provided in accompanying flash drive at Source 23].

<sup>18</sup> Source 12, *supra* note 1, at art. 5.

B. Method 2 (backup): A new treaty is the recommended course of action if Method 1 is insufficient to effect the border crossings or in case Method 1 is deemed to overreach the current agreements.

The second method suggests a full treaty be created by the federal governments of the United States and Canada.<sup>19</sup> It is recommended that this method be employed only if the existing Shiprider agreement and personnel exchange programs are insufficient or overreaching because treaties require significant amounts of time, resources, and political will which may not be available in either nation. However, this method does have the added advantage of an opportunity to explicitly outline any agreement created concerning border crossings rather than relying upon extension of existing ones.

Concerning the questions presented, under this second method, the a new agreement must be created between the federal governments,<sup>20</sup> but states would be able to have their personnel exchange and other administrative agreements, made to ease the administrative and personnel overhead of USCG and RCMP's administration of Shiprider, incorporated by reference within the agreement if that is deemed useful or expedient. The creation of the new agreement would likely be based upon the provisions of Shiprider and serve to supplement its functionality, and the likelihood of a cohesive agreement being created is quite high. The only limitations to such an agreement would be the ability for the parties to agree, political will, and existing constitutional and statutory constraints.<sup>21</sup> Any agreement thus created would have to be signed under the authority of the President<sup>22</sup> and Minister of Foreign Affairs,<sup>23</sup> though that authority

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<sup>19</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2; Source 09, *supra* note 15, at § 10.

<sup>20</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2; Source 09, *supra* note 15, at § 10.

<sup>21</sup> For example, the Coast Guard may only expend up to \$100,000 while assisting foreign agencies. Cooperation with Other Agencies, 14 U.S.C. §§ 141-153 at § 149(d)(3) (2014). [Electronic copy provided in accompanying flash drive at Source 08]. The 10<sup>th</sup> Amendment also disallows the federal government to compel state or state agency action. Source 07, *supra* note 15.

<sup>22</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2.

<sup>23</sup> Source 09, *supra* note 15, at § 10.

may well be delegated, as it was in Shiprider, on the basis of specialist knowledge by the signatories and convenience.

### III. Overview of Statutory Authority

The U.S. Coast Guard has the statutory authority to engage in the maritime law enforcement and environmental responses contemplated by this paper, as well as the ability to amend the Shiprider agreement and cooperate with other organizations while undertaking its mission. The RCMP's statutory authority will also be briefly detailed in each section.

#### A. Maritime Law Enforcement

USCG has authority to undertake maritime law enforcement operations, and these operations represent an integral part of the Coast Guard's mission. In domestic waters, this authority includes the protection of life and property<sup>24</sup> and general law enforcement duties, including the powers of seizure and arrest.<sup>25</sup> In the Shiprider context, the USCG officers' power remains unchanged while the craft is in domestic waters or airspace, but changes to those powers given to U.S. Customs Officers when present in Canada.<sup>26</sup> These Customs Officer powers include the power to search, seize, and make arrests for immigration and contraband violations in the United States or within a reasonable distance thereof.<sup>27</sup> The use of force by Shiprider officers is restricted to that allowed by the laws of the host country.<sup>28</sup> The RCMP's statutory

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<sup>24</sup> Saving Life and Property, 14 U.S.C. § 88 (2014). [Electronic copy provided in accompanying flash drive at Source 25].

<sup>25</sup> Law Enforcement, 14 U.S.C. § 89 (2014). [Electronic copy provided in accompanying flash drive at Source 16].

<sup>26</sup> Source 12, *supra* note 1, at art. 6(6).

<sup>27</sup> Powers of Immigrations Officers and Employees, 8 U.S.C. § 1357 (2014). [Electronic copy provided in accompanying flash drive at Source 20].

<sup>28</sup> Source 12, *supra* note 1, at art. 13.

authority for maritime law enforcement for the purposes of Shiprider stems from the incorporation of Shiprider directly into the Royal Canadian Mounted Police Act.<sup>29</sup>

## B. Environmental Response

Another of the USCG's core responsibilities is environmental response. These duties include response to threats to endangered species<sup>30</sup> and pollution incidents.<sup>31</sup> This gives the Coast Guard the ability to respond to prevent harm to wildlife and the environment, such as would be required during the hypothetical oil spill incident. Threats of this kind may also well involve the need for cross-border assistance, and the additional resources available through the Shiprider agreement or subsequent treaty would be ideal means for dealing with these issues. The U.S. Coast Guard already has joint response agreements in place with Canada,<sup>32</sup> and this existing agreement can be supplemented under the two methods presented, as will be discussed in detail within Section V below.

## C. Amendment of Existing Shiprider Agreement

The USCG has the ability to amend the Shiprider agreement with RCMP's consent by means of exchanging diplomatic notes.<sup>33</sup> This exchange of "diplomatic notes" was allowed through the demilitarization of the Great Lakes following the War of 1812.<sup>34</sup> Diplomatic notes are the means by which the U.S. government communicates to other governments and generally

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<sup>29</sup> Royal Canadian Mounted Police Act, R.S.C., 1985, c. R-10 at § 45.88. [Electronic copy provided in accompanying flash drive at Source 22].

<sup>30</sup> Endangered Species Act, 16 U.S.C. § 1536 *et seq.* (2014). [Electronic copy provided in accompanying flash drive at Source 11]; Magunson Act, 16 U.S.C. § 1801 *et seq.* (2014). [Electronic copy provided in accompanying flash drive at Source 17].

<sup>31</sup> Ports and Waterways Safety Act, 33 U.S.C. § 1221 *et seq.* (2014). [Electronic copy provided in accompanying flash drive at Source 19].

<sup>32</sup> Canada-United States Joint Marine Pollution Contingency Plan (2003). [Electronic copy provided in accompanying flash drive at Source 04].

<sup>33</sup> Source 12, *supra* note 1, at art. 19(2).

<sup>34</sup> Rush-Bagot Treaty of 1817. [Electronic copy provided in accompanying flash drive at Source 24].

take the form of formal correspondence.<sup>35</sup> This offers a more informal and convenient method for the amendment of the existing agreement in order to facilitate any desirable changes to the agreement which might be expedient. The RCMP has the same right to amend if the USCG so agrees.<sup>36</sup>

#### D. Cooperation with Other Agencies

The United States Coast Guard has the authority to cooperate with other agencies, including specified assistance to foreign governments.<sup>37</sup> The only identified limitation is the expenditure of funds when assisting foreign agencies;<sup>38</sup> here the USCG could recover reasonable tuition costs from training Canadian and local authority personnel in order to avoid running afoul of this rule. The Coast Guard is also authorized to conduct or make available training “for the good of the service,” which can be utilized to conduct and provide Shiprider training for officers of participating agencies in both nations.<sup>39</sup>

#### IV. Methods for Effecting Expedited Cross-Border Assistance on the Great Lakes

As noted above, two methods have been identified as possible means for enabling the USCG, the RCMP, and state and provincial agencies to provide mutual cross-border assistance to one another: 1) expansion of the scope or amendment to the text of the existing Shiprider agreement and 2) explicit treaty agreement. In this section, both of these methods will be analyzed in light of the questions presented and the administration of each will be illustrated

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<sup>35</sup> United States Department of State, *U.S. Department of State Foreign Affairs Manual Volume 5, Handbook 1: Correspondence Handbook, 5 FAH-1 H-610: Using Diplomatic Notes* (2013). [Electronic copy provided in accompanying flash drive at Source 28].

<sup>36</sup> Source 22, *supra* note 29, at § 45.88.

<sup>37</sup> Source 08, *supra* note 21.

<sup>38</sup> Source 08, *supra* note 21, at § 149(d)(3). The expenditure cap is set at \$100,000 per year.

<sup>39</sup> Commandant; General Powers, 14 U.S.C. § 93(a)(7) (2014). [Electronic copy provided in accompanying flash drive at Source 06].

through hypothetical scenarios involving a need for cross-border law enforcement assistance and an oil spill in Section V.

A. Method 1: Use and Possible Amendment of the Existing Shiprider Agreement and Personnel Exchange Programs

This method, if feasible, is the recommended course of action in order to bring about the expedited border crossings on the U.S.-Canada Great Lakes maritime border. It draws upon the historically more friendly and less formal relations between the armed forces of the United States and Canada than existed between the United States and other nations,<sup>40</sup> and would allow for existing agreements and programs to be utilized rather than relying upon the creation of additional agreements which could take significant time and resources to create. Under this method, Shiprider-trained personnel from both nations would be stationed at strategic stations near the maritime border and stand ready to respond as needed in addition to carrying out routine joint patrols. This method would allow the expanded functionality of the proposed system to be put into place much sooner than would the treaty method, Method 2 below, and without significant involvement or oversight outside of the USCG and the RCMP, since those organizations already administer the Shiprider program.<sup>41</sup> Below, this method will be detailed according to the questions presented and then demonstrated through the cross-border law enforcement and oil spill scenarios.

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<sup>40</sup> James A. Wood, *The Good Neighbors and Their Undefended Fence: US-Canadian Cross-Border Military Excursions Before the First World War*, AM. REV. CAN. STUD., Vol. 43, No. 1, 49-69 (2013). [Electronic copy provided in accompanying flash drive at Source 13].

<sup>41</sup> Source 12, *supra* note 1, at art. 5.



1. How can a state and a province, in conjunction with the national government, agree to a plan that authorizes assets to cross the border in a timely manner?

Neither U.S. nor Canadian local authorities can agree to allow expedited border crossings, but both can participate in the Shiprider program as administered through the USCG and the RCMP, as the Central Authorities of Shiprider, respectively.<sup>42</sup> The state and provincial authorities can put exchange programs into place which would allow trained officers within the agencies to serve on joint crews and provide logistical support to assist the USCG and the RCMP respectively. The agencies may also physically respond with trained joint crews under the command of their respective Central Authorities if personnel and equipment are sufficient to do so.<sup>43</sup> In essence, the local authorities may not create a plan as that is firmly vested with the USCG and the RCMP only, but may advise the Central Authorities as to how to best utilize the resources at their disposal; participate in the Shiprider program and provide personnel; provide funds through tuition costs; and give logistical support. This assistance from local sources would help to reduce the administrative, personnel, and financial burdens that the expanded Shiprider operations might bring about for the USCG and the RCMP.

2. Are there any local authorities to authorize a state-to-province agreement for streamlining border crossings?

Neither state nor provincial authorities are empowered to form a state-to-province agreement for streamlining border crossings in the manner which is contemplated within this paper. Federal law in the United States<sup>44</sup> and in Canada<sup>45</sup> restricts agreements with foreign nations and their respective governmental bodies to the countries' federal governments.

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<sup>42</sup> Source 12, *supra* note 1, at art. 6.

<sup>43</sup> Source 12, *supra* note 1, at art. 6. In essence, the crew's agency affiliation does not matter so long as they are all properly trained and respond under the authority and command of the respective Central Authority.

<sup>44</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2.

<sup>45</sup> Source 09, *supra* note 15, at § 10.

However, as stated in the immediately preceding section, the local authorities can create internal policies to enable exchange programs with sister agencies in the other country in order to provide the necessary crewmembers for joint operations. These agreements could enable agencies to provide responders to the situations contemplated within this paper under the command and direction of the Central Authorities, the USCG and the RCMP.<sup>46</sup> Such exchange programs would be fundamental to the staffing of the expanded Shiprider operations, and would ease the administrative burdens of the Central Authorities in their administration of it.

3. What are the federal authorities applicable to a similar agreement at the federal level?

The federal authorities which apply to the Shiprider agreement in its envisioned and expanded form apply to the existing Shiprider agreement: they are the USCG<sup>47</sup> and RCMP<sup>48</sup> exchange programs, and the applicable governing and organic federal laws of each. The Shiprider agreement, as detailed in Section III(C) above, can be modified by the exchange of diplomatic notes to accommodate any desired changes identified under the expanded view of the agreement's functionality as detailed in this paper.<sup>49</sup> Amendment may be expedient to codify methods or procedures which have been found useful or to resolve doubt. At present, there are no such matters identified in need of formal codification under Method 1. However, should this expanded functionality be undertaken, it is possible that areas of the agreement could become viewed by both Central Authorities as insufficient to support the evolved operational capacity. It is these areas, identified after the program has reached its final form, which may be desirable to codify in order to formalize any adjustments made and to avoid future doubt.

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<sup>46</sup> Source 12, *supra* note 1, at art. 5.

<sup>47</sup> Source 02, *supra* note 17.

<sup>48</sup> Source 23, *supra* note 17.

<sup>49</sup> Source 12, *supra* note 1; Source 24, *supra* note 34.

#### 4. Can a comprehensive agreement be created?

Under Method 1, the existing Shiprider agreement and USCG personnel exchange program<sup>50</sup> are sufficient to deal with the administration and staffing of the expanded Shiprider functionalities. However, it is possible that the RCMP and other agencies may not have formalized exchange program agreements, and it may be beneficial to create specific agency-to-agency exchange programs so that duly trained personnel under Shiprider can be traded between the responding agencies with increased ease and efficiency. These agreements, and any additional measures which might be desirable to formalize, can be incorporated directly or by reference into the Shiprider agreement by amendment through the exchange of diplomatic notes as explained in Section III(C) above.<sup>51</sup>

#### 5. What are the limits to such a federal agreement?

The limits of the first method are a) that the joint operations must be crewed by specifically trained members from both nations and b) that there may be budgetary constraints.

a) First, Shiprider requires that any joint operation have at least one crewmember from each nation in order for the appropriate crewmember to assume command on either side of the maritime border.<sup>52</sup> These individuals would have to be exchanged under USCG<sup>53</sup> or RCMP<sup>54</sup> authority.<sup>55</sup> Depending on the number of crews deemed required for an effective response outside of the routine joint patrols, the number of personnel required to be stationed at the varying strategic stations may represent an administrative challenge.

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<sup>50</sup> Source 02, *supra* note 17; Source 21, *supra* note 17.

<sup>51</sup> Source 12, *supra* note 1; Source 24, *supra* note 34.

<sup>52</sup> Source 12, *supra* note 1, at art. 6.

<sup>53</sup> Source 02, *supra* note 17; Source 21, *supra* note 17.

<sup>54</sup> Source 23, *supra* note 17.

<sup>55</sup> Source 12, *supra* note 1, at art 5. Although individual agencies would be handling their own exchange programs, the individuals involved would also have to be approved by USCG or RCMP respectively because those agencies are the Central Authorities under Shiprider.

To illustrate this staffing burden, it is assumed for the sake of example that the USCG and the RCMP desire to establish a total of ten strategic stations on either side of the border. These stations would have the ability to respond to incidents as needed, beyond the current joint patrol model. It is further assumed that each crew would work an eight-hour shift and that a total of five crewmembers (including the officer in charge) would be required to crew the vessel and provide the required boarding ability.<sup>56</sup> This would bring the total crewing requirement of trained Shiprider personnel, beyond those already utilized for joint patrols, to 150, as three five-member crews would need to be present at each station. Accordingly, at least fifteen personnel under USCG authorization and control would need to be exchanged to the five stations on the Canadian side of the border. This may be a substantial personnel burden although it can be at least partially alleviated by state and provincial officers. However, the number and availability of officers needing to be trained in accordance with Shiprider's provisions<sup>57</sup> may represent an operational bottleneck at least during the initial stages.<sup>58</sup>

b) Also, the USCG's expenditures providing assistance to foreign entities is statutorily capped at \$100,000.<sup>59</sup> This limit, as it is statutory, cannot be changed without amending the statutory provisions, but the expenditures under the expanded Shiprider program could be defrayed by recovering tuition costs for training individuals outside of the Coast Guard and "reimbursing" the fund through that means to avoid going over the statutory spending cap if

<sup>56</sup>U.S. Coast Guard Boat Operations and Training (Boat) Manual, Vol. 1, COMDTINST M16114.32C (2013). [Electronic copy provided in accompanying flash drive at Source 27.] This provides an overview of the varying crew requirements for differing vessels, missions, and weather conditions.

<sup>57</sup> Source 12, *supra* note 1, at art. 7.

<sup>58</sup> Source 10, *supra* note 5. The article states that 236 students had completed the Shiprider training at the time of writing. However, this paper will not make any assumptions as to how many ready and able personnel have received the training as that number is likely to change.

<sup>59</sup> Source 08, *supra* note 21, at § 149(d)(3).

required. The participating agencies would pay the Coast Guard on a pre-arranged rate for the cost of training.<sup>60</sup>

6. Who must be signatories to the federal agreement?

Under Method 1, no additional agreements need be undertaken in order to effect the expedited border crossings as contemplated, but additional agreements may be expedient, such as an explicit agreement between the USCG and the RCMP concerning the exchange of personnel and where the Shiprider-trained members would be stationed. These agreements would be done according to the internal rules of each agency, which would likely require authorization by the respective agency heads. Additionally, the Central Authorities may also find it desirable to establish formalized exchange programs with the various responding state and provincial agencies to reduce the administrative and personnel overheads that staffing the strategic stations would entail.

7. What level of government would need to approve such a federal agreement?

The personnel exchange agreements contemplated in the preceding paragraph would be approved at the USCG Commandant and RCMP Commissioner levels respectively, or their delegates.<sup>61</sup> The heads of the various state and provincial agencies, or by their delegates, would also be the appropriate level for implementing the formalized exchange programs, unless the individual agencies' internal procedural rules otherwise dictated. These agreements undertaken by the local authorities would accordingly not be of the types prohibited by constitutional law,<sup>62</sup>

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<sup>60</sup> State, provincial, and federal grants may also be utilized by participating agencies to in turn defray their tuition costs.

<sup>61</sup> Source 12, *supra* note 1, at art. 5.

<sup>62</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2; Source 09, *supra* note 15, at § 10.

but instead would be administrative agreements between the agencies themselves concerning the placement of personnel.

#### B. Method 2: New Treaty Agreement to Supplement Shiprider

The second method is not recommended unless Method 1, expanding the scope of the existing Shiprider agreement or amending it by agreement, proves to be impracticable. This could occur due to pushback from participating agencies, the federal governments, or because the Central Authorities believe the proposed measures represent an overreach of the spirit of the original agreement but wish to implement the expanded operational capacity as contemplated.

Additionally, it may be desirable in certain situations to go beyond the scope of Shiprider, such as by allowing non-jointly-crewed vessels to provide assistance at the request of the host nation. This represents a significant departure from the original agreement's requirement, and would require an additional treaty agreement to so allow, as such a change would be so far beyond the scope of the original agreement that mere amendment would not be possible or appropriate. If these or similar situations arise where the expedited border crossings cannot be effected, then the alternative, as presented here, is a treaty agreement between the United States and Canada which fully fleshes out the issue to remove any ambiguity and to define in precise terms what may and may not be done concerning cross-border assistance on the Great Lakes. This could also theoretically be done through an executive agreement by the President of the United States, but given the invasive nature of allowing unsupervised armed officers from a foreign military power onto American waters, as well as sending American officers without direct Canadian supervision onto Canadian waters, this method is likely inappropriate and will not be considered in this paper. The treaty method will be analyzed according to the question presented and applied to the law enforcement and environmental response scenarios below.

It is assumed for the purposes of this analysis, and recommended as a matter of efficacy, that, if such a treaty were created, it would include provisions which would allow the host nation to request assistance from participating agencies, either the Central Authorities or state or provincial agencies, through a pre-approved chain of command, and that the responding air or water craft be required to be crewed by trained personnel, but not necessary by an international crew. The removal of the international crew member would reduce the need for personnel exchange programs, and allow a broader spectrum of participation. The responding crews would be trained as under the existing Shiprider provisions, and would be fully responsible to both Central Authorities for their conduct during the operation.

1. How can a state and a province, in conjunction with the national government, agree to a plan that authorizes assets to cross the border in a timely manner?

Under this method, the states and provinces may not participate directly in the creation of the new agreement because agreements with other nations are treaties and thereby reserved for the federal governments.<sup>63</sup> The local authorities would be able to participate in an advisory capacity, and provide their own agreements between themselves and the Central Authorities which can be explicitly incorporated into the new agreement or inserted by reference to allow subsequent amendment. However, the housing states for the local agencies cannot be compelled to provide assistance in this federal matter, although the local agencies could voluntarily agree to do so or be given incentives.<sup>64</sup> This informational and advisory assistance would enable the USCG and the RCMP to craft a better agreement which could incorporate more agencies as the capabilities of each would be known to them and agreement among all of the parties is more likely, which would lead to greater cooperation and ease of administration.

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<sup>63</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2; Source 09, *supra* note 15, at § 10.

<sup>64</sup> Source 07, *supra* note 15, at amend. X.

2. Are there any local authorities to authorize a state-to-province agreement for streamlining border crossings?

Under Method 2, there are no present local authorities which would allow state-to-province agreement, but such an arrangement could be created within the new treaty agreement. This treaty could grant states and provinces the ability to coordinate their own mutual assistance programs within the confines of the federal agreement. Such an ability would need to be granted explicitly through the new agreement, and would be administered under the authority of the Central Authorities<sup>65</sup> or the federal governments generally, as states themselves cannot make international agreements on their own.<sup>66</sup> This would, in essence, constitute those agencies responding to cross-border assistance requests as an agent of the Central Authorities.

3. What are the federal authorities applicable to a similar agreement at the federal level?

The applicable federal authorities under this method are the respective constitutional laws which allow international agreements by the federal governments.<sup>67</sup> The USCG also has authority to make international agreements if the power is delegated to it as it was in Shiprider,<sup>68</sup> and the RCMP has previously been delegated authority in such matters as well.<sup>69</sup> The framework for this new agreement would likely be heavily based upon the existing Shiprider agreement, since its principles would only need to be clarified and expanded beyond the original scope while keeping the same essential notions contained within. The treaty would be constrained by the applicable federal laws of each nation, such as USCG's foreign assistance

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<sup>65</sup> Source 12, *supra* note 1, at art. 5.

<sup>66</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2; Source 09, *supra* note 15, at § 10.

<sup>67</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2; Source 09, *supra* note 15, at § 10.

<sup>68</sup> Source 21, *supra* note 17.

<sup>69</sup> Source 03, *supra* note 2.



spending cap<sup>70</sup> and general constitutional principles.<sup>71</sup> For example, the USCG would be able to spend no more than \$100,000 on all foreign assistance,<sup>72</sup> including the expenditures stemming from Shiprider, and would be forbidden to compel state or state agency cooperation through the anti-commandeering provisions of the 10<sup>th</sup> Amendment. These constraints, however, are not onerous, and leave a great deal of leeway for the parties to agree.

#### 4. Can a comprehensive agreement be created?

The scope for international agreements is broad, and is only constrained by the applicable laws detailed in the section immediately preceding this one. Fundamental agreement has already been achieved through Shiprider, and expansion of its existing protocols can likely be achieved with less difficulty than would be present without such a foundation. The only limits to such a treaty would be the federal and constitutional constraints in place, as well as the parties' ability to agree to the relevant provisions and to draft the agreement in a manner which provides the required provisions and clarity to bring about the desired expedited border crossings.

#### 5. What are the limits to such a federal agreement?

As detailed in the immediately preceding paragraph, the limits on the United States would be the same as the applicable laws, namely the USCG's spending cap for foreign assistance,<sup>73</sup> and the inability to compel participation or cooperation by local agencies.<sup>74</sup> As detailed in Section VI(A)(5) above, the ability to train and field a sufficient number of trained

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<sup>70</sup> Source 08, *supra* note 21, at § 149(d)(3).

<sup>71</sup> Source 07, *supra* note 15, at amend. X. The agreement could not require states or state agencies to provide services, but could provide them with the ability to do so voluntarily or in exchange for incentives.

<sup>72</sup> Source 08, *supra* note 21, at § 149(d)(3).

<sup>73</sup> Source 08, *supra* note 21, at § 149(d)(3).

<sup>74</sup> Source 07, *supra* note 15, at amend. X.

personnel<sup>75</sup> to the respective designated stations to allow for the sufficiently rapid response times required under the scenarios presented below and for other operational needs may also represent a challenge. The applicability of these constraints and the number of crewmembers required would depend on the number of stations deemed strategic and the terms of the new agreement. Given this, the potential scope for agreement is broad if a tailored agreement is created.

#### 6. Who must be signatories to the federal agreement?

The President of the United States<sup>76</sup> and Canadian Minister of Foreign Affairs,<sup>77</sup> or those with delegated authority from those offices, would be the required signatories. In Shiprider, the signature authority was delegated to the USCG Commandant and the RCMP Commissioner, who then delegated authority to the signers of the original Shiprider agreement.<sup>78</sup> If an additional treaty is required, this level of delegation is likely to be again useful given the specialized expertise required to agree to such an arrangement, but the terms of the agreement as drafted will dictate the level of delegation allowable or appropriate.

#### 7. What level of government would need to approve such a federal agreement?

As noted above, the President of the United States and Canadian Minister of Foreign Affairs would be the ultimate approving authorities for the new agreement created under Method 2.<sup>79</sup> The signatories, as described in the immediately preceding paragraph, would be acting by and through these executive offices, and it would be the highest levels of federal executive government which would be ratifying the agreement through their agents.

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<sup>75</sup> Source 12, *supra* note 1, at art 6.

<sup>76</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2.

<sup>77</sup> Source 09, *supra* note 15, at § 10.

<sup>78</sup> Source 03, *supra* note 2.

<sup>79</sup> Source 07, *supra* note 15, at art. II, § 2, cl. 2; Source 09, *supra* note 15, at § 10.

## V. The Methods Applied to Law Enforcement and Environmental Response Scenarios

Given the above analysis, each Method will now be analyzed according to the following scenarios: A) a small and fast smuggling vessel repeatedly crossing the U.S.-Canadian maritime border on the Great Lakes to evade capture, and B) an oil tanker with a hull breach which has caused petroleum to cover the water in an ever-expanding area.

### A. Law Enforcement

Under this first scenario, a small and fast vessel is carrying contraband, and is repeatedly crossing the maritime border in order to evade capture. The vessel has not responded to or heeded orders to stop its engines and submit to boarding and inspection by either USCG or RCMP personnel. Under Method 1 and the existing Shiprider agreement, a trained joint crew could be notified of the vessel and could pursue it as it goes across the border. If such a jointly manned crew was not present at the time of the first pursuit, such a crew could be scrambled to pursue from the nearest station so outfitted under the procedures of Method 1. This expanded reactionary capacity would relieve participating agencies from relying solely upon joint patrols already underway to respond to such incidents where time is of the essence. During the pursuit, under both the existing Shiprider agreement and Method 1, the law enforcement vessel's command would simply switch to the host country officer each time the border was crossed, and in either scenario would be able to pursue the smuggling vessel regardless of where it navigates. The joint crew would be able to pursue the smugglers and even apprehend them on land if required in both instances.<sup>80</sup> The nation in which the apprehension took place would be the prosecuting authority under both the existing agreement and the first method.<sup>81</sup>

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<sup>80</sup> Source 12, *supra* note 1, at art. 3.

<sup>81</sup> Source 12, *supra* note 1, at art. 10.

The difference, in essence, is the enhanced response capability, as well as the ability to field a greater number of joint patrols given the increased number of personnel involved. Depending upon the levels of agency participation, either joint patrols may be increased or response teams, in air or water craft, could be standing by in order to respond in areas where the joint patrols are not present or if additional support is required.

Under Method 2, as stated above in Section VI(B), it is assumed and recommended that the new treaty in place would enable trained personnel to respond through a pre-approved chain of command and without need for an international crewmember present. After receiving such a communication, a participating agency would be able to send the appropriate craft and personnel to apprehend the smugglers as detailed above. This agreement, with the removal of the requirement for an international crewmember to be present, would enable a larger number of agencies to respond. These agencies would still be under the direction of the Central Authorities, and the officers involved would be accountable to both of these Authorities while undertaking the operation. This structure of officer accountability provides a greater flexibility for providing the necessary resources to apprehend the smugglers in a time-sensitive situation, but also maintains the accountability desired by both Central Authorities and federal governments to check the actions of the crewmembers involved in the host country.

#### B. Environmental Response

The second scenario is that of an oil tanker on the Great Lakes which has suffered a hull breach and from which an expanding oil slick has formed. Even if this slick has not yet crossed the maritime border, either there is a danger that it may do so, or the host country requires

additional assistance to contain the spill. Under Method 1,<sup>82</sup> jointly crewed vessels would be able to freely cross the international border and assist in containing the oil spill. The additional resources which could be provided by an international response would allow for a more timely intervention than is presently possible and should accordingly result in reduced environmental damage. As with the smuggler example above, time is of the essence when responding to such an incident, and a delayed response time creates a larger and more complex problem. Allowing international crews across the border under an expanded Shiprider provision would allow an expedited border crossing without the red tape which would otherwise delay and otherwise hinder such an operation.

Under Method 2, the new agreement could put into place pre-approved protocols for requesting assistance from participating agencies in the other nation. If so agreed, these protocols could include allowing non-jointly-crewed vessels to cross the international border and assist with the response efforts. These crews would not necessarily have to receive Shiprider training as they would not face the same law enforcement and use-of-force present as there would be during a law enforcement operation, and they would be present due to specific invitation. This method would allow for a greater response by a larger number of agencies, because the responding vessels would need crews trained only trained for environmental response and not for law enforcement due to the nature of the assistance. The responding vessels could then be placed under the larger command of the host nation and incorporated into the larger cleanup effort.

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<sup>82</sup> The present Shiprider agreement does not mention environmental incidents, so the interpretation thereof would need to be done in light of the Canada-United States Joint Marine Pollution Contingency Plan (2003). Source 04, *supra* note 32.

## VI. Drawbacks to an Expanded Shiprider Program Under Either Method

Because the Great Lakes comprise an international border, there must be a balance between the need and desirability of integrated cross-border response and maintaining the integrity of the border.<sup>83</sup> Even if actions are within the scope of the present Shiprider agreement, under an expanded or amended reading thereof, or as it is supplemented by a new agreement, the danger for overreaching the appropriate level if inter-government involvement remains present.<sup>84</sup> While the myriad Shiprider-style agreements used around the world clearly indicate their effectiveness and desirability,<sup>85</sup> an increase of cross-border patrols and possible responses by participating agencies could give rise to strained relations. The more operations take place, the greater the chance of matters going awry and imposing liability upon the other nation's Central Authority and the officers involved.<sup>86</sup> Given the complex nature of the operations already underway, as well as those contemplated herein, it is beyond the scope of this paper, and perhaps even foresight, as to some of the potential matters which could arise when armed officers cross an international border. However, it bears mentioning that even the improper discharge of a firearm by a foreign officer in a host country could be sufficient to give rise to an international incident. This has not yet occurred between the United States and Canada, but, if it were to happen, there is the possibility of political fallout and a possible reconsideration of the Shiprider agreement in whichever form it stands at the time.

However, despite this potential fallout, such risk is always present during international operations where high-speed chases, armed officers, and heavy and complex machinery are

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<sup>83</sup> Canada-United States Law Journal, *Balancing Canada-United States Security and Economic Competitiveness: The Great Lakes and St. Lawrence River*, 34 Can.-U.S. L.J. 249 (2008). [Electronic copy provided in accompanying flash drive at Source 05].

<sup>84</sup> Matthew K. Grashoff, *Building Fences Together: The EU's Lessons for the U.S.-Canada Perimeter Security Plan*, 37 Can.-U.S. L.J. 517 (2012). [Electronic copy provided in accompanying flash drive at Source 18].

<sup>85</sup> Source 15, *supra* note 8.

<sup>86</sup> Source 12, *supra* note 1, at art. 11.

involved. This may well have been contemplated when Shiprider was negotiated and signed. The maritime border between the United States and Canada is, all at the same time, a possible haven for illegal activity, a source of safety hazards for boaters and other recreational users, and a precious natural resource. The border should be protected and policed,<sup>87</sup> but care should be taken when extending policing and rescue operations. In short, expansion of the Shiprider operational capacity under either method represents significant opportunities for the United States, Canada, and their respective Central Authorities; but overexpansion could give rise to liability and potentially undermine the progress and cooperation that has defined the project to date. However, deliberation, careful planning, and thorough training are keys to success in whatever form of joint operations are undertaken by the Coast Guard. With careful balance, planning, and concerted cooperation, expanded operations on the Great Lakes done in conjunction with Canada can give rise to many advantages for all governments and agencies involved. Despite the potential risks, the increase of coordination between the United States, Canada, and their respective agencies can give rise to additional maritime border security, rescue response, and environmental protection on the Great Lakes.

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<sup>87</sup> Steve de Eyre, *The Prospects for a North American Security Perimeter: Coordination and Harmonization of United States and Canadian Immigration and Refugee Laws*, 35 Can.-U.S. L.J. 181, 181-85 (2011). [Electronic copy provided in accompanying flash drive at Source 26].