



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
COM(2008) final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND TO THE COUNCIL**

**On an entry/exit system at the external borders of the European Union, facilitation of
border crossings for *bona fide* travellers, and an electronic travel authorisation system**

[Version 07.12.2007]

21460 characters

On an entry/exit system at the external borders of the European Union, facilitation of border crossing for *bona fide* travellers, and on electronic travel authorisation system

1. INTRODUCTION

The external borders of the EU are crossed every year by more than 300 million travellers, EU citizens and third country nationals combined. Europe is and will continue to be the world's most important tourist destination¹. This mirrors the importance of EU cultural heritage and the success of its political and social-economic model. In order to share its values and support economic growth, the EU must remain open and accessible to others.

The Union's integrated border management strategy is continuously being enhanced through legislative and operational measures at consulates, in cooperation with third countries, at the border itself, and within the Schengen area. The key challenge for the medium-term lies in how the Union will be able to embrace new technologies in an extensive, consistent and proportionate way, identifying synergies among systems to most effectively apply these technologies. The overall **strategic objective** when seeking to meet this challenge will be to facilitate the entry of *bona fide* visitors to the Union while enhancing security. A step-by-step approach is needed, implementing what has already been planned and decided, while developing a long-term strategy that can build upon existing initiatives – notably in this context the introduction of the Visa Information System (VIS) - and be accompanied by a thorough cost-benefit analysis.

This Communication presents

- proposals for the introduction of an entry/exit system, allowing the electronic recording of the dates of entry and exit of third country nationals into and out of the Schengen area; it thereby responds to the request of the European Council of December 2006 to report on the feasibility of such a system;
- proposals to facilitate border crossing for bona fide travellers, through the introduction of automated border crossing facilities for EU citizens and certain categories of third country nationals;²
- parameters for the possible introduction of an Electronic Travel Authorisation System, including how it would interrelate with the above two initiatives;
- links and synergies between the above as well as existing initiatives, and related data protection challenges.

This Communication is based on an impact assessment which was carried out with the support of two studies from external contractors. A Commission staff working paper to be

¹ World Tourist Organisation (WTO): Vision 2020 Volume 4 pag.48. 'Tourism' also includes travelling for the purposes of improving one's professional qualifications and health.

² The Commission included the creation of an entry-exit system and the introduction of a border-crossing facilitation scheme among possible developments in its Communication on enhanced interoperability and synergies among European databases in the area of Justice and Home Affairs (COM(2005)597 final of 24 November 2005) and in its Communication on Policy Priorities in the fight against Illegal Immigration of Third-Country Nationals (COM (2006) 402 final of 19.7.2006).

presented in the coming months will describe in more detail issues related to the technical implementation.

2. POLICY CONTEXT

2.1. The relevant legal framework

According to the Schengen Borders Code³, EU citizens and other persons enjoying the Community right of free movement (e.g. members of the family of EU citizens) crossing the external border shall be subject to a "minimum check", at both entry and exit, consisting of the examination of the travel document so as to verify the identity of the individual. Third country nationals must be subject, at entry, to a "thorough check", which entails determining their purpose of stay and whether they possess sufficient means of subsistence, as well as a search in the Schengen Information System and in national databases to verify that they are not a threat to public policy, internal security, public health and the international relations of the Schengen States.

Border guards are obliged to affix manually a stamp – indicating the date and place of entry and exit - on the travel documents of third country nationals crossing the external border. However, there is no obligation to keep a record of such entries or exits in a separate register or database. . It is therefore very difficult to identify swiftly those third country nationals who have overstayed their visa or their visa-free period, and it is impossible for a Member State to record the exit of third country nationals from the EU if the person departs from another Schengen Member State.

Border crossings may be facilitated in certain cases and/or for specific categories of persons (e.g. heads of State, pilots, seamen, diplomats)⁴. This is mainly linked to their status/function or, for categories such as border residents or cruise passengers⁵, due to the fact that people have already been checked in advance and thus can be considered *bona fide* travellers. Nevertheless, these cases comprise only a very small percentage of border crossings and checks are not automated. The vast majority of third-country nationals therefore remain subject to a thorough, manual check at each border crossing, and this regardless of whether they require a visa or not.

2.2. Existing IT infrastructure and biometric systems

Third country nationals requiring a short stay visa will be checked against the Visa Information System, once operational.⁶ The main purposes of the VIS are, on entry, to verify the authenticity of the visa and the identity of its holder. Biometrics will be introduced from the start in the VIS but biometric verifications and identity checks will be compulsory only at

³ OJ L 105 of 13.4.2006, p. 1.

⁴ See Annex VII to Regulation No 562/2006, points 1-4.

⁵ See, respectively, Annex VII to Regulation No 562/2006, point 5, as well as Annex VI to the same Regulation, point 3, paragraphs 3.2.2. and 3.2.3.

⁶ COM (2007)

entry⁷. [The Commission has presented a proposal to amend the Schengen Borders Code, making compulsory the verification of the identity of the visa holder at each entry.]

The Schengen Information System (SIS) and the future SIS II registers alerts, with respect to third country nationals, on persons to be refused entry to the Schengen area, wanted persons, and persons to be put under protection. SISII will be able to store the biometrics, if available and required, of certain categories of persons. All third country nationals entering the EU, whether under visa obligation or not, are checked systematically in the SIS; this check is optional at exit.

Biometrics are being introduced as an additional layer of security for travel documents and for accurate identity checks. Member States have begun issuing biometric passports⁸ containing the digitised facial image of the holder, and will from 28 June 2009 issue passports containing the holder's fingerprints⁹. European residence permits will contain the same biometric identifiers in the future¹⁰.

3. THE OPERATIONAL IMPLEMENTATION OF NEW TOOLS

3.1. The creation of an entry/exit system

- *An extension of the VIS should be envisaged for automatically registering the time and place of entry and exit of each visa holder, to identify overstayers.*
- *For non-visa holders, a new database should be set up to allow for the automatic registration of the same data, taking and storing biometric identifiers of each such person.*
- *An alert should be issued to national authorities once the validity of an individual's stay in the EU has expired, and no exit data had been captured.*

Main features of the system

An entry/exit system should apply to third country nationals admitted for a short stay (up to 3 months), as they may present problems with regard to overstaying (excluding therefore holders of local border permits, holders of national long stay visas as they are not covered by the VIS, holders of residence permits, and third country nationals exempted from stamping¹¹). The system should include the recording of information on the time and place of entry, the length of stay authorised, and the transmission in real time of automated alerts directly to the relevant immigration authorities, should a person be identified as 'overstayer', both at the time

⁷ The VIS Regulation states that once VIS becomes operational, biometric verifications will be compulsory at all borders within three years of starting operations. This transition period can be reduced to one year at airports.

⁸ Council Regulation 2252/2004 of 13 December 2004 on Biometrics in Passport.

⁹ Commission Decision C(2006)2909 of 28 June 2006.

¹⁰ Proposal for a Council Regulation amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third country nationals (COM(2003) 0558); the implementation of both biometric identifiers in residence permits could be envisaged to start in 2001, at the earliest.

¹¹ Article 10 §3 of the Schengen Borders Code; Heads of State and diplomats; pilots and aircraft crew members; seamen, crew and passengers of cruise ships, under certain conditions; nationals of Andorra, Monaco and San Marino.

this occurs and upon departure from the EU. In case of exceptional extension (e.g. a national visa granted due to flight cancellation, illness or other justifiable reason) the system should automatically keep track of the additional time granted.

The alert information will allow for:

- Enabling national authorities to identify overstayers and take the appropriate measures;
- Providing a deterrent for third-country nationals not to overstay;
- Providing information for operational purposes on patterns of overstaying (e.g. travel route, country of origin and reasons for travelling) as well as data on migration flows and overstayers for visa policy purposes.

Data on third country nationals not requiring a visa would enable for identification of undocumented persons within the Schengen area, in cases where such persons cannot be identified using the VIS or Eurodac. No such tool exists for this category today, while for short term visa holders identification of undocumented persons will be possible in the VIS.

Implementation

Since all third country nationals requiring visas will have to provide their biometric data when applying for a visa at a Member State's consular post for the Visa Information System, the technical implementation of an entry/exit system for this category will be straight forward. It will involve extending the VIS, and will not require additional steps to be taken in terms of enrolling biometric data or providing new equipment at border crossing points. The entry/exit system for this category would therefore not have a major impact on border control systems and procedures. It would however be necessary to await the complete and successful rollout of the VIS to all consular posts and border crossing points, which is expected for 2012 at the earliest.

For third-country nationals not requiring visas, the same biometric equipment and identification/ verification procedures as for visa holders can be used at the borders. However, it would be necessary to capture and store their biometric data at each entry so that subsequent biometric checks on exit as well as within the Schengen area could be performed, which could potentially complicate the management of passenger flows, especially at land borders.

A separate system is required for this purpose, using the same technical platform as SIS II and VIS and the same Biometric Matching System (BMS), thereby exploiting synergies with existing biometric systems, keeping costs low and ensuring interoperability. Care should be taken to design a user-friendly system that is easy and quick to operate for border guards and compatible with the existing and future working environment, having regard to the SIS II and the VIS.

3.2. Facilitating border crossings for *bona fide* travellers

- *For third-country nationals, measures at consulates should foresee a differentiated screening of visa applicants: low-risk travellers issued with a multiple-entry visa should be granted Registered Traveller status.*

- *Low-risk travellers not requiring a visa should be offered a pre-screening process, on a voluntary basis, with a view to being granted the same status.*
- *At the borders Registered Travellers would benefit from a facilitated and automated border check.*
- *For EU citizens automated gates at the external borders can be introduced under the current legal framework and should be encouraged. Access to automated gates can be given to those holding a biometric passport or a specific token issued upon individual application under national schemes.*

Main features of facilitated border crossings

The introduction of Automated Border Control systems can enable the automated verification of travellers' identity without the intervention of border guards. A machine reads the biometric data contained in the travel documents or stored in a system or database and compares them against the biometrics of the traveller, accelerating border checks by creating automated separate lanes replacing the traditional control booth.

A decision on the border crossing points at which facilitation measures are introduced should be taken by Member States individually, based on the flow of passengers and the traffic conditions.

Third-country nationals

Awarding the status of "Registered Traveller" and providing for automated checks for those persons will mean waiving the verification of certain entry conditions at the border (purpose of stay, means of subsistence, absence of threat to public order). The criteria for Registered Traveller status should as a minimum include a reliable travel history (no previous overstays; data to this effect can be retrieved from the entry/exit system), proof of sufficient means of subsistence, and holding a biometric passport containing fingerprints. Further criteria should involve successful visa applications or electronic travel authorisations over the past years. A limited period of validity should be defined. During this period the compliance with the vetting criteria should be subject to continuous monitoring by the Member State who awarded the status, including continuous checking against the SIS and national databases as relevant.

Travellers with multiple entry visas should be given Registered Traveller status automatically.

For third country nationals not requiring a visa a separate application process will be necessary to enrol their biometric and biographic data. The application procedure could be organised at Member States' consular posts or at future common application centres. A separate card, or a database, should contain the biometric data. To allow for the use of the same infrastructure and equipment as for visa holders, the same biometric identifiers (facial image and fingerprints) should be used. Information will need to be shared between Member States on holders of Registered Traveller status, as they must be recognised at all border crossing points in the EU where automated gates are installed.

EU citizens

Simplified checks under the current legal framework can be automated for EU citizens in possession of an e-passport. Automated gate systems as described above would read and extract the information from the travel document, capturing biometrics and performing the

verification to enable entry or exit, as well as random checks of the SIS and national databases.¹²

In the perspective of finalising the introduction of biometrics in passports, which should be completed by 2016 for one biometric identifier and by 2019 for two identifiers, at the latest (assuming a maximum period of validity of passports of 10 years) all EU citizens will at that time be able to benefit from automated border crossings should they be taken up by Member States in a wide spread fashion.

In the run-up to the full introduction of biometric passports, schemes based on voluntary enrolment can be deployed by Member States, storing the biometric data in a national database or in a separate card or token. Criteria for enrolment should correspond to those for minimum checks at the borders and be open for all persons enjoying the Community right to free movement. Such schemes should be interoperable within the EU, based on common technical standards.

3.3. Electronic travel authorisation

- *Third-country nationals would be requested to make an electronic application supplying data identifying the traveller and passport details.*
- *The data would be used for the purpose of an on-line check against certain databases in advance of departure.*
- *Such a system would provide an additional layer of security by preventing third-country nationals who are clearly flagged in, for example, the SIS to arrive at a border crossing point of the Schengen area and thereby offloading national border guard resources.*

Experience in third countries

There is no fixed definition of how an ETA can be designed, for example, with regard to the procedures or data to be submitted in advance. Two examples from other countries can illustrate issues to be considered further.

Before travelling to Australia and before an air ticket is issued, the traveller or the travel agent/airline sends an electronic application for an ETA to the relevant Australian authorities. This involves entering in the ETA system data identifying the traveller and details of the passport. The data are compared with an on-line file held by the Australian authorities on persons whose entry into Australia is considered undesirable. No fee is charged when the application is made through a travel agent/airline.

If consultation of the file does not give rise to an alert, an ETA number is assigned electronically and the air ticket can be issued. If an alert is given, no ETA number can be assigned and the traveller is asked to contact the Australian consular authorities. On arrival in Australia, the immigration authorities check that the passport holder has an ETA.

¹² Portuguese RAPID is an example of such system already in operation.

Under new legislation on the modernization of the Visa Waiver Program (VWP), the USA will also introduce an ETA system for citizens of countries which are part of the VWP. Although details of the US ETA system are not yet available, it seems likely that:

- Biographical and other information will be collected to determine, in advance of travel, the eligibility of the traveller to enter the USA. The information would also be used to verify if there is a law enforcement or security risk in permitting the person to travel to the USA. Names will be checked against watch lists of known and suspected terrorists;
- A fee may be charged, set at a level that will ensure recovery of the full costs of providing and administering the ETA system;
- The ETA may be valid for a maximum period of three years, which would mean that it would not be necessary to apply for an ETA each time a person will travel to the USA;
- The eligibility of a person to travel to the USA is not a determination of admissibility; border checks will still be carried out.

A European ETA

In recent months, discussions have taken place on whether the EU should create an electronic travel authorisation (ETA) system. It could be applicable to third-country nationals not subject to the visa obligation, and as a consequence have an influence on the countries to be subject to that obligation in the future. As part of the further development of the integrated management of the EU external borders, the setting up of an ETA system should be analysed to assess its potential added value compared to existing and planned initiatives. Technical, financial and practical implications in the light of current provisions on Advance Passenger Information (API) and future provisions on a European passenger name record (PNR) system should be examined.

Moreover, since an application for an ETA would have to be made in advance of travelling, applying it to land borders and even to sea borders will need to be carefully analysed having regard to unplanned border crossings and the fact that large numbers of people travel on an individual basis without any carrier or travel agent involved.

The Commission intends to launch a study to analyse these issues in 2008.

4. LINKS BETWEEN THE SYSTEMS

The entry/exit system enhances border security and the fight against illegal immigration; automated border control systems facilitate the border crossing of *bona fide* passengers. An increase in the time required and longer queues due to the introduction of the entry/exit system will be offset by better management of the flow of passengers due to automated border crossings. For the group of travellers eligible for the latter, the enrolment of biometrics at each entry for the purpose of the entry/exit system should be dispensed since otherwise the Registered Traveller status would lose its meaning. Subject to finding the appropriate technical solutions the registration of dates for entry and exit should therefore be included in the automatic border control process for such travellers.

Automated border controls for bona fide travellers would provide major benefits in time savings on crossing the external border and allow border authorities to focus their resources

on those groups of third country nationals that require more attention, thus improving overall security at borders. Additional benefits to this effect could follow from the introduction of an ETA.

Travellers that have already been subject to pre-screening for the purpose of being awarded the status of registered travellers should be exempted from the requirement to obtain an ETA, as the pre-screening - which would also be subject to a continuous review – would fulfil the same function. Requiring an ETA for that group would go against the aim of minimising procedures and facilitating travel. An ETA could on the other hand not replace the pre-screening process as it would not in itself provide sufficient security with a view to granting access to automated gates at the border, notably since the introduction of biometrics in an ETA would not be feasible.

The development of an entry/exit system and measures to facilitate travel would not be influenced by any future decision on whether to proceed with a European ETA or not. However, while the functioning of the entry/exit system is not dependent on the existence of automated border controls, those two systems should be considered together, in order to upgrade security and to facilitate travel simultaneously and offset the implementation issues involved in the entry/exit system.

5. DATA PROTECTION ISSUES

Systems should comply with EU data protection rules including the requirements of necessity, proportionality, purpose limitation and quality of data.

The data protection rules for the VIS and the status quo including the retention of information for only five years would seem appropriate.

The data generated by the entry/exit system should be used mainly by immigration authorities. Access by law enforcement agencies could be envisaged subject to the appropriate legal framework. Individuals should have the right of access to information held on them and to challenge and correct this information if errors have occurred. Provisions should be made for an appeal mechanism in cases where third country nationals are ‘forced’ to overstay and/or if there were errors made in recording dates of entry and exit.

The Registered Traveller Programme, while voluntary, would also pose data protection challenges. Data protection provisions including the right of access to personal information used to justify refusals of applications would be appropriate. The Registered Traveller Programme should also include a requirement that authorities provide reasons for refusal and an opportunity for applicants to appeal against refusal.

The study to be launched by the Commission on the implications of an ETA will consider the relevant data protection issues arising from such a system.

6. CONCLUSIONS

Having regard to the progress made in agreeing upon and launching the Visa Information System, the EU should seriously consider building on this achievement by agreeing on the necessary parameters for putting in place an **entry/exit system** for all third-country nationals admitted for a short stay, to be operational by 2015. Legislation would be needed to:

- amend the Schengen Borders Code to ensure that registration of dates of entry and exit is carried out systematically at all crossing points of the external border, and that the enrolment of biometrics at the border for third country nationals not requiring a visa becomes a compulsory entry condition;
- amend the VIS regulation to provide for registration of the dates of entry and exit of visa holders; and
- a separate decision to set up a system to register the dates of entry and exit of third country nationals not requiring a visa, using the same technical platform as for VIS/SIS II/BMS.

The EU should seriously consider, within the same time-frame, creating a legal framework for the status of "**registered traveller**" for certain third-country nationals. This would require legislative initiatives for

- a separate decision on the vetting criteria to be applied to applicants for such a status and possibly also rules on where the enrolment of third-country nationals not requiring a visa should take place, as well as the setting up of a database for the enrolment of third-country nationals not requiring a visa;
- amendments to the Schengen Borders Code to allow for a simplified check of travellers awarded such a status at the borders;
- amendments to the Common Consular Instructions [or the Visa code] to provide for the status of registered traveller for people with a multiple-entry visa.

Member States are encouraged to set in place **automated border control systems for EU citizens**, based on the e-passport or national schemes. A discussion on the development of technical standards to achieve interoperability of national schemes not based on the e-passport should take place in the appropriate fora. In a wider perspective, developing global standards should be considered, with a view to coordinating enrolment, eligibility and technical interoperability features of such schemes at international level.

The Commission will report back to the European Parliament and the Council on the outcome of the study on an **electronic travel authorisation system**, the main features of which should be taken into account in the discussions on a registered travellers programme.

The Commission invites the European Parliament and the Council to discuss these recommendations. It will further assess the presentation of legislative proposals taking into account the outcome of that debate.



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE, FREEDOM AND SECURITY

Director General

Brussels, 11 DEC. 2007
JLS.B1 D(2007) 16490

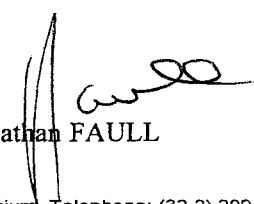
NOTE TO THE ATTENTION OF
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Mr. CLAUDE CHÈNE, DIRECTOR GENERAL DG ADMIN
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Subject: Inter-service consultation on a draft Communication from the Commission on the creation of an entry/exit system at the external borders of the European Union and on facilitating border crossings for bona fide travellers

The Commission's work programme for 2008 includes as a strategic initiative the presentation of three Communications ("Border Package") on 1) the evaluation and future development of the Frontex Agency; 2) examining the creation of a European Border Surveillance System (EUROSUR); 3) the creation of an entry/exit system at the external borders of the European Union and on facilitating border crossings for bona fide travellers. The Communications should be presented in February, in order to feed into a Ministerial Conference to be organised by the incoming Slovenian Presidency on these subjects.

Please find attached a draft of the Communication on the creation of an entry/exit system at the external borders of the European Union and on facilitating border crossings for bona fide travellers as well as its accompanying impact assessment and the summary of the latter. I take this opportunity to express my thanks for the input and contributions already provided by your departments for the preparation of this document.

I would be grateful if you would let me have any comments or observations on this draft within **15 working days**. For any additional information, please contact Mr. Henrik NIELSEN (tel 91641).


Jonathan FAULL

COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying document to the Communication on an entry/exit system at the external borders of the European Union, facilitation of border crossings for bona fide travellers, and an electronic travel authorisation

1. INTRODUCTION

The Impact Assessment on the creation of an entry/exit system at the external borders of the European Union and on facilitating border crossings for bona fide travellers is based on data collected from interviews as well as from case studies, pilot projects and literature reviews. Interviews were mainly held with experts with regard to the already existing systems in the Member States. The data-gathering and a large part of the consultations with relevant authorities in the Member States were undertaken through two external studies ordered by the Commission in December 2006 and June 2007. The external studies and this report have been drafted with input from numerous contacts between the Directorate-General for Justice, Freedom and Security and the contractors. An inter-service meeting with other services including Legal Service (SJ), Taxation and Customs Union (TAXUD), Fisheries and Maritime Affairs (FISH), Enterprise and Industry (ENTR) and External Relations (RELEX) was held in November 2007. In addition, it should be noted that DG TREN formed part of the steering committee for the external study and was involved in the process already from the very beginning.

The Impact Assessment was revised to take into account the opinion issued by the Impact Assessment Board on 4 December 2007.

2. STATE OF PLAY AND PROBLEMS

The passenger flows at the external borders of the European Union have been growing and will continue to increase in the future. Most of the passengers are so called bona fide travellers and are granted entry in compliance with the existing Regulations and rules; but there are also serious crimes closely related to cross border movements of people: travel document and identity fraud, people smuggling, human trafficking and terrorism. Illegal immigration into EU poses a challenge to every Member States. It is likely that over half of illegal immigrants entered the EU legally but become illegal due to overstaying their right to stay.

Two objectives, that may appear contradictory, must therefore be met: on the one hand, the bona fide passengers should be ensured a smooth border crossing and on the other hand, the internal security of the Schengen area should be guaranteed.

There are in the order of 300¹ million EU27 external border crossings per annum at designated border crossing points. It is estimated that 160 million of these border crossings are made by EU citizens, 60 million by third country nationals (TCN) not requiring a visa and 80 million by TCN requiring visas.

¹ Own calculation from Eurostat database on tourism. The number is based on the estimates of overnight stays in hotel, collective accommodation establishment or in private tourism accommodation. People staying with friends and relatives are not counted. Overnight stays are registered by country of residence of the travellers.

It is estimated that there were up to 8 million illegal immigrants within the EU25 in 2006. It is likely that over half of illegal immigrants entered the EU legally but become illegal due to overstaying their right to stay.

The passport of every TCN should be manually stamped when she/he enters and exits the Schengen area. The time a third country national has spent in the area of the Member States is calculated based on these stamps, which are however often difficult to interpret; they may be illegible or the target of counterfeiting. Exact calculation of time spent in the Schengen area on the basis of stamps in the travel documents is thus both time-consuming and difficult. In addition, there is no record of the time spent in the Schengen area for TCN. Due to these reasons, at the moment there are no easy manageable and reliable means of determining if a TCN has overstayed his/her right to stay; no consistent record of entries and exits of travellers to and from the Schengen area, which could help to improve border management, security and planning; and no possibility to gather information on overstayers.

In this context, the main problems identified in the current situation are:

- (a) illegal immigration,
- (b) terrorism and serious crime,
- (c) data gap,
- (d) growing pressure of passenger flows and
- (e) the challenges of economic migration.

3. POLICY OBJECTIVES

The general objectives of the entry/exit system are, in order of priority:

- To reduce illegal immigration (especially overstayers);
- To contribute to the fight against terrorism and serious crime;
- To improve the effective management of economic migration (for example, seasonal workers).

The general objectives of the Registered Traveller Programme are, in order of priority:

- To facilitate the crossing of EU external borders for bona fide travellers, while ensuring overall coherence of EU border policy;
- To improve the effective management of economic migration (for example, seasonal workers).

Specific and operational policy objectives have been elaborated for each of the above-mentioned objectives.

4. POLICY OPTIONS

Five different options have been identified:

Option 1: Status Quo

A status quo policy option needs to reflect a large number of important developments that are underway such as the use of electronic travel document and the full implementation of the VIS and a substantial improvement in infrastructure for managing cross border flows are anticipated to occur.

Option 2: Entry/exit system

This option would involve the recording of the time and place of entry and exit of TCN crossing the EU external border. Improved information would be generated on the cross border flows of TCN. Such information could be used to detect and review the situation of overstayers. The data would also be useful in planning the use of border control and migration management resources. This option consists of two sub policy options; entry/exit system for TCN requiring visas (2a) and entry/exit system for TCN not requiring visas (2b).

Option 3: Measures for facilitating cross border flows

This policy option could take several forms, and be applied to different categories of travellers. Three sub policy options have been chosen so that the Impact Assessment process can assess the implications of the main differences that could apply. The sub policy option of a Registered Traveller Programme for TCN (3a) would be, in part, a response to the additional constraints and implications for cross border travel that the entry/exit system could impose. TCN granted the Registered Traveller Status would benefit from quicker automated controls. The assessment of the two sub policy options relating to EU citizens illustrates the differences in approach between establishing a single EU wide system (3b) and establishing minimum standards for the development of a number of systems (3c) tailored to the needs of particular border crossings and groups of EU travellers (e.g. both Registered Traveller Schemes and Automated Border Control).

Two other policy options introducing various obligations on migrants to confirm return to the country of origin, and possibly combined with a bond system, were considered but eliminated. These options were too wide and complex - both in the political sense and with regard to practical implementation - to be carried out in the medium-term. In the future, these alternatives might be reflected again in a larger context as a part of wider policy considerations for the management of economic migration and international development.

In addition, several technical options for the entry/exit system for TCN were considered but the assessment has focussed on a system that makes use of the developments that are taking place in the status quo and in particular the VIS. Entirely separate systems would be costly and disproportionate.

5. COMPARISON OF THE POLICY OPTIONS

Policy options were assessed against general, specific and operational objectives as well as against other relevant criteria such as robustness in the light of substantive and policy changes, and impacts on fundamental rights, particularly privacy and data protection.

The table below indicates the comparative assessment of policy options and sub options against general objectives of the entry/exit system and Registered Traveller Programme.

Comparative assessment of policy options and sub options						
<i>Policy Options (Anticipated impacts rated from – (negative contribution to objective) to √√√√ (full achievement of objective)</i>						
Objective to be achieved/ problem addressed	Policy option 1	Policy option 2a	Policy option 2b	Policy option 3a	Policy option 3b	Policy option 3c
Policy objective: To reduce illegal immigration (especially overstayers)	√	√√	√√√	√	√	√
Policy objective: To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy	-	√	-	√√	√	√
Policy objective: To contribute to the fight against terrorism and serious crime	√	0/√	√	-	-	-
Policy objective: To improve the effective management of economic migration (for example seasonal workers)	√	√	√	√	0/√	0/√
Relative costs	NA	Low	Medium	Low-medium	Medium	Low
Preferred option		*	*	*		*

6. THE PREFERRED OPTION

Based on the assessments, those policy options were chosen that can meet the objectives and realistically be expected to be implemented in the short-medium term, with respect to fundamental rights and data protection.

The preferred option is thus a combination of an entry/exit system for all third country nationals (sub policy option 2a and 2b), Registered Traveller Programme for third country nationals (sub policy option 3a) and minimum standards for Registered Traveller Schemes and Automated Border Control System for EU citizens (sub policy option 3 c).

The preferred option generates benefits and contributes to the achievement of the objectives, even though the potential with respect to reducing terrorism and serious crime is not significant.

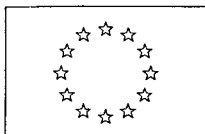
From the technical perspective concerning the entry/exit system, the VIS and the SIS II pursue different objectives and thus comprehensive synergies cannot effectively be applied in this context, although technical synergies could be found. The VIS system could be used for the purposes of the entry/exit system for registering the entry and exit data of TCN requiring a visa, as well as in verifying the biometric identifiers. Regarding TCN not requiring a visa, at least partially separate systems would be required, but which could build on the same technical platform as the VIS and use the same Biometric Matching System (BMS). This would allow for exploiting synergies with existing biometric systems, keeping costs low and ensuring interoperability.

As to the Registered Traveller Programme, a separate data base will be required.

The costs would marginally increase compared to the status quo. However, the preferred option is highly dependent upon the success of the implementation of the status quo.

7. MONITORING AND EVALUATION

The impact assessment indicates potential indicators to monitor the extent to which the specific and operational policy objectives have been met. The main information sources are the databases of the entry/exit system and Registered Traveller Programmes.



Brussels, 4 December 2007
D(2007) 10828

Opinion

Title **Impact Assessment on: Communication on the creation of an entry/exit system at the external borders of the EU and on facilitating border crossings for bona fide travellers**

(draft version of 9 November 2007)

Lead DG **DG JLS**

1) Impact Assessment Board Opinion

(A) Context

The creation of an automated entry/exit system has been discussed as a possible policy option in several EU documents: Communication on improved effectiveness, enhanced interoperability and synergies among European databases in the area of Justice and Home Affairs (2005), The Policy Plan on Legal Migration (2005), The Communication on Policy Priorities in the fight against illegal immigration of third-country nationals (2006) and the EU Action Plan on Combating Terrorism (2006). The setting up of a Registered Traveller programme has been raised in the 2006 Communication as well as in the 2005 Communication on EU-US Partnership.

(B) Positive aspects

The IA report gives a clear presentation of options inter alia by highlighting key differences between options. Furthermore the IA report provides good and detailed information about the reporting and monitoring arrangements.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG.

General recommendation: The IA report should be further improved by elaborating on alternative options addressing the problem of illegal immigration and overstaying, by putting into proportion the link between objectives and problems, by providing the main arguments for and against imposing sanctions and by improving the scoring system to compare the options. Given the nature of the

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recommendations, the Board would welcome the opportunity to examine a revised IA report if DG JLS decides to resubmit it.

(1) The IA report should consider alternative options to solve the problem of illegal immigration and overstaying. The IA report should either explain in more detail what the overriding 'political and practical' reasons are for dropping the alternative options on p.12 early on, or it should include these options and offer a more detailed assessment of their impacts. Moreover, it should be avoided that the description of problems and objectives (p. 5-12) already contains references to the proposed entry/exit system.

(2) The objectives should correspond to the problems defined. Notably with regard to the objectives of improving the management of economic migration and facilitating the crossing of borders, the IA report should more clearly set out the magnitude of the problems in these two areas. For the management issue it should be clarified why the absence of an EU management system for economic migrants and the lack of comparable EU-wide data is a problem, and for the border crossing issue the IA report could for instance describe trends in the number of border crossings and contrast these with the number of border control staff, productivity trends, and foreseen investments. The assessment of the various policy options should systematically include the impacts on waiting times and on the management of economic migration (including – if relevant – the indirect impact on third countries through remittances).

(3) It should be clarified whether sanctions on overstaying are proposed. The IA report should clarify whether this initiative involves a potential proposal to harmonise sanctions, or whether this is an inevitable next step. Additionally the main arguments for and against the imposition of sanctions should be indicated. The identified risk that such sanctions might deter people from ever (formally) leaving the EU should be more conclusively dealt with. The Board notes the intention of DG JLS to clarify this point.

(4) The scoring and comparison of options should be further improved. The IA report should avoid using an 'undefined' score for assessing the status quo option, and instead determine more precisely the dynamic evolution of the baseline and delineate impacts of already adopted measures. As many developments and substantial improvements in infrastructure for managing cross border flows are already underway, the IA report should make it clear whether they are part of the baseline "status quo" scenario. Additionally the comparison of options should involve all relevant criteria as set out early in the IA report or explain why some criteria are left out. The Board notes the intention of DG JLS to revise the draft IA on this point.

(D) Procedure and presentation

The IA report should clarify what internal and external consultation has been carried out, and what impact it has had on the analysis of the IA report. Especially any views expressed by Member States on the implementation costs issues should be provided.

The link between the creation of an entry/exit system and measures to facilitate cross border flows and the reason for combining them should be explained.

2) IAB scrutiny process

Reference number	2007/JLS/073
Author DG	JLS
External expertise used	No
Date of Board Meeting	Written procedure
Date of adoption of Opinion	4 December 2007



Brussels, 14 December 2007
D(2007) 11176

Opinion

Title **Impact Assessment on: Communication on the creation of an entry/exit system at the external borders of the EU and on facilitating border crossings for bona fide travellers – RESUBMISSION**

(draft version of 6 December 2007)

Lead DG **DG JLS**

1) Impact Assessment Board Opinion

(A) Context

The creation of an automated entry/exit system has been discussed as a possible policy option in several EU documents: Communication on improved effectiveness, enhanced interoperability and synergies among European databases in the area of Justice and Home Affairs (2005), The Policy Plan on Legal Migration (2005), The Communication on Policy Priorities in the fight against illegal immigration of third-country nationals (2006) and the EU Action Plan on Combating Terrorism (2006). The setting up of a Registered Traveller programme has been raised in the 2006 Communication as well as in the 2005 Communication on EU-US Partnership.

(B) Positive aspects

The IA report gives a clear presentation of the options, inter alia by highlighting key differences between them. Furthermore, the report provides good and detailed information about the reporting and monitoring arrangements.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG.

General recommendation: This IA report has been improved compared to the previous version examined by the Board. It would benefit, however, from giving preliminary indications on the broad range of costs of the creation of the new system, providing clearer explanations as regards the actual and potential

sanctions, improving the baseline description and the internal coherence of the comparison of options and clarifying the definition of economic migration. These comments were broadly accepted by DG JLS during its meeting with the Board.

(1) Preliminary indications on the broad range of costs of the creation and maintenance of the new system should be provided. Likely needs for border control staff should be incorporated into a more comprehensive cost assessment in addition to investments in hardware, software and physical infrastructure. While announcing a more detailed estimate for later, some first indications of these costs should already be provided and additionally costs and time taken to develop the currently existing systems (Visa Information System and Schengen Information System I and II) should be used as background/reference information.

(2) It should be clarified whether sanctions on overstaying are proposed. The IA report should clarify how this initiative relates to existing and proposed legislation on sanctions, and whether it might lead to a proposal to harmonise sanctions, for instance as regards re-entry refusal in case of overstaying. In this context, the main arguments for and against the imposition of sanctions should be indicated, including the risk that such sanctions might deter people from leaving the EU through formal routes after an overstay.

(3) The baseline should be clarified and the scoring and comparison of options should be more coherent. As developments in infrastructure for managing cross border flows are already underway, the IA report should make it clear whether they are part of the baseline "status quo" scenario. Moreover, the report needs to be corrected for the incoherence between apparently using the status quo (incl. action already decided and under implementation) as benchmark in table 1 whereas the report explicitly states that options are compared against the current situation (p.33). It should also be clarified upfront whether all options are independent or are linked in some way (e.g. registered traveller programme to compensate the increased waiting times at the border resulting from the introduction of an entry/exit system).

(4) The claimed contribution to better management of economic migration should be clarified. The IA report should more clearly explain and define the problem of managing economic migration, in particular by clarifying whether the concept of (legal) "economic migration" also covers (potentially illegal) migration for economic or other reasons, in particular family reunifications. Moreover, it should be clarified how this initiative will contribute to better management of the Schengen area beyond providing data on overstayers.

(D) Procedure and presentation

The IA report should present in more detail the views and main policy orientations expressed by Member States, especially on the issue of implementation costs. The report should also clarify that the accompanying Communication does not necessarily represent the Commission final proposal, but rather fits into ongoing consultations with Member States on creating an entry/exit system and introducing a registered traveller programme.

2) IAB scrutiny process

Reference number	2007/JLS/073; CLWP 2008 (Strategic Initiative)
Author DG	JLS-B-1
External expertise used	No
Date of Board Meeting	12 December 2007
Date of adoption of Opinion	14 December 2007 The present opinion concerns a resubmitted draft IA report. The first opinion was issued on 4 December 2007.