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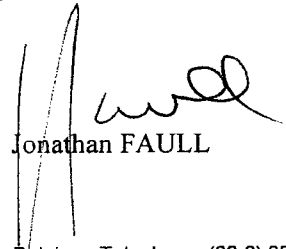
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**Subject: Inter-service consultation on three draft Communications from the Commission on**  
**- The evaluation and future development of the Frontex Agency**

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 evaluation and future development of the Frontex Agency 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 of the Commission: Report on the evaluation and future development  
of the FRONTEX Agency**

## **1. INTRODUCTION**

The Community policy in the field of the EU external borders aims at an integrated management ensuring a uniform and high level of control and surveillance, which is a necessary pre-condition to the free movement of persons within the European Union and a fundamental component of an area of freedom, security and justice. To this end, the establishment of common rules on standards and procedures for the control of external borders is foreseen.

An efficient implementation of the common rules calls for increased coordination of the operational cooperation between the Member States. On the basis of the experiences of the External Borders Practitioners' Common Unit, acting within the Council, a specialised expert body tasked with improving the coordination of operational cooperation between Member States in the field of external border management has been established in the shape of a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (hereinafter referred to as the FRONTEX Agency).

## **2. STATE OF PLAY AND PROBLEMS**

The Hague Programme as adopted by the European Council on 4/5 November 2004 requested the Commission to submit an evaluation of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) to the Council before the end of 2007.

The evaluation should contain a review of the tasks and mandate of the Agency and an assessment of whether the Agency should concern itself with other aspects of border management, including enhanced cooperation with customs services and other competent authorities for goods-related security matters, against the background of the overall development of the common border policy of the Community.

Based on the outcome of the evaluation the problems, or more exactly the shortcomings, that can be defined at this stage and for the purpose of the impact assessment are therefore rather linked to whether the implementation allows for reaching the overall policy objectives in the most optimal way: is FRONTEX growing too fast, are certain activities more successfully implemented than others, are Member States contributing or able to contribute to the activities of the Agency, are expectations and punctual requests for action coherent and realistic, or do they entail a risk for ad hoc priorities bringing the Agency "off course" in the longer term.

The Council as well as the European Council have responded to crisis situations and problems faced at the external borders by repeatedly, in the form of political conclusions, calling on FRONTEX to take forward specific initiatives.

Against this background the following points must be considered:

- How can the potential of FRONTEX be maximised for the purpose of reaching the policy objectives, having regard to the continuous challenges involved in managing the external borders;
- How can a coherent development be assured whereby attention is paid to all parts of the FRONTEX mandate;
- How can an appropriate priority setting of the activities of the Agency be achieved.

*The following key areas of activities of the Agency have been scrutinised in more detail based on the outcome of the evaluation:*

- joint operations coordinated by FRONTEX;
- technical equipment put at the disposal by the Member States to the Agency;
- possibility to set up specialised branches ;
- relation between joint operations and the European Patrol Network;
- risk analysis reports;
- management of ICONet (Information and Co-ordination Network for Member States' Migration Management Services);
- management of the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI);
- providing training to border guards;
- launch and participation in research projects;
- assistance for return operations conducted by Member States;
- cooperation with third countries;
- horizontal integration with other authorities;
- contribution to the integrated border management concept as a whole.

### **3. POLICY OBJECTIVES**

The evaluation report is the response of the Commission to the request of the European Council as included in the Hague Programme.

The policy objectives correspond to the objectives set for the Agency at the time of its inception and are still valid for the integrated border management policy of the Union as a whole.

### 3.1. General policy objectives

The general policy objectives can be defined as follows:

- contribute to an integrated management of the external borders at European level;
- effective control and surveillance of the external borders;
- facilitate the application of existing and future Community measures relating to the management of the external borders by ensuring the coordination of operational cooperation between Member States.

### 3.2. Specific policy objectives

The specific policy objectives can be defined as the enumeration of tasks in the current mandate of the Agency.

- coordinate the operational cooperation between Member States in the field of management of external borders;
- assist Member States on training of national border guards, including the establishment of common training standards;
- carry out risk analyses;
- follow up on the development of research relevant for the control and surveillance of external borders;
- assist Member States in circumstances requiring increased technical and operational assistance at external borders;
- provide Member States with the necessary support in organising joint return operations;
- deploy Rapid Border Intervention Teams to Member States;
- international cooperation.

## 4. POLICY OPTIONS

The following three policy options have been identified that contribute to reaching the overall objectives and provide solutions to the identified shortcomings.

These options include 15 separate recommendations which have been grouped into three policy options:

Policy Option 1: A **status quo** policy option;

Policy Option 2: An option including mainly non-legislative recommendations that should be relatively inexpensive, uncontroversial and straightforward to implement in the **short/medium term**;

Policy Option 3: An option including all of the recommendations of policy option 2 plus additional recommendations for the **longer term** that will require further discussion.

The policy options are outlined in Table 4.1. The recommendations have been numbered and classified according to whether they could imply a legislative (l) or non legislative action (nl).

**Table 4.1 – Overview of Policy Options**

Description of policy option	
<b>Policy Option 1</b>	No changes are made to the current situation
<b>Policy Option 2</b>	<p><b>1. Technical equipment</b></p> <p>The potential of CRATE, and the commitments made by Member States, must be exploited to the full for all activities of the Agency (nl)</p> <p><b>2. Specialised branches</b></p> <p>Consideration should be given to the setting up of specialised branches in the relevant geographical areas (nl)</p> <p><b>3. Relation between joint operations and the EPN</b></p> <p>FRONTEX to analyse how semi-permanent joint operations can be merged with the European Patrol Network (nl)</p> <p><b>4. Risk analysis</b></p> <p>Joint risk analysis with Europol, international organisations and relevant third countries, and frequent geographical and/or theme oriented joint risk analysis, with relevant partners, should be encouraged (nl)</p> <p><b>5. Management of ICONet</b></p> <p>Task FRONTEX with the management of ICONet, under the present or another technical platform such as the FRONTEX Information System (nl)</p> <p><b>6. Management of CIREFI</b></p> <p>Task FRONTEX to centralise the exchange of operational information related to illegal immigration (nl)</p>

Description of policy option	
	<p><b>7. Own technical equipment</b></p> <p>To ensure the availability of equipment through FRONTEX acquiring its own equipment for border control and surveillance, for instance to be used by the RABIT teams (nl)</p> <p><b>8. Return</b></p> <p>Strengthen the role of FRONTEX regarding return operations – examine the possibility to use CRATE as a means for sharing technical equipment between member States (l)</p> <p><b>9. Training</b></p> <p>Training offered to border guards should take into account and include relevant provisions of European and international rules on asylum, the law of the sea and fundamental rights. Specialised training courses should therefore be offered by FRONTEX on these aspects, in order to increase the availability of border guards with the necessary competences and contribute to a consistent approach to situations involving search and rescue coordination (nl)</p> <p><b>10. Research</b></p> <p>Implement joint projects aiming at real life operational testing of new technologies, to assess their feasibility and impact on current procedures as border crossing points (nl)</p>
<b>Policy Option 3</b>	<p>All measures mentioned under Policy option 2 plus:</p> <p><b>1. Schengen evaluation</b></p> <p>The mechanism to perform Schengen evaluations is currently under review. The Commission will present a proposal to that effect in the second half of 2008. In that perspective it is clear that FRONTEX could provide added value to such an evaluation mechanism through its expertise on external border control and surveillance and on the potential links to its other activities, notably training and risk analysis (l)</p> <p><b>2. Cooperation with third countries</b></p> <p>Priority should be given to strengthened cooperation with those third countries that have been identified as problem areas through the joint operations coordinated by FRONTEX. Evaluate a possible extension of the current FRONTEX mandate allowing the Agency to implement pilot projects with third countries as beneficiaries. (l)</p>

Description of policy option	
	<p><b>3. Future operational coordination</b></p> <p>Initiate an in-depth reflection on the long-term strategy, including issues related to an EU border guard. (l)</p> <p><b>4. Border surveillance</b></p> <p>Frontex to take on the role as a hub for information exchange in a future European border surveillance system and take on the development of a pre-frontier intelligence picture. (l)</p> <p><b>5. Customs and horizontal integration</b></p> <p>Pilot projects at European level could support the coordination between the activities of national border guard authorities and national customs authorities. FRONTEX and Member States should explore the possibility of conducting FRONTEX-led joint operations in coordination with cooperation projects of national customs authorities (nl)</p>

## 5. COMPARISON OF THE POLICY OPTIONS

The process of defining policy options involved grouping the proposals for recommendations into three policy options.

Assessment and weighing of the pro's and cons of the policy options has involved systematically considering each of the individual recommendations described within the policy option. Many of the recommendations are complementary, but in a small number of cases they could themselves be alternative means of achieving the objectives.

### 5.1. Policy option 1

As a starting point, maintaining the status quo would mean that the Commission ignores the numerous requests made by the European Council to look at possible ways to improve the functioning and the operations of FRONTEX. The findings of the evaluation would not result in any suggestions for how the shortcomings could be remedied, shortcomings which are directly linked to how the policy objectives can be reached. It would equally mean that no debate is launched on the long term directions on how FRONTEX should further develop in the context of the European Integrated Border Management concept, including to what extent the scope of the current mandate should be revisited.

### 5.2. Policy option 2

The evaluation identifies shortcomings and gaps in the current mandate and proposes recommendations to address these in the short/medium term. Addressing the identified



shortcomings and meeting the objectives is necessary to work towards an integrated European border management policy.

Such an approach is consistent with the aim of the Commission to render border controls at the European level more effective. For that reason the evaluation is taking stock of the different issues surrounding the functioning of the FRONTEX Agency, it is looking at the possibilities to optimise the activities within the current mandate and it recommends a series of possibilities that can be implemented within short delays to optimise the work of the Agency and to further enhance a uniform European approach on the various aspect of border controls.

The option therefore provides a substantial improvement of the current situation. However, it has a major drawback as it is not providing a longer term vision.

### **5.3. Policy option 3**

The added value of the short-term recommendations remains the same as under option 5.2.

To address the evaluation of the FRONTEX Agency in a comprehensive manner, a strategy to develop a longer term policy is needed. The longer term recommendations form the basis for engaging into a deeper reflection which will enable the relevant actors to take into account the full picture of the numerous evolving policies (Schengen area, Customs, border surveillance, horizontal integration, relations with third countries, enhanced operational coordination) that have an important impact on all three policy objectives.

A longer term strategy is necessary to avoid that the tasks of the Agency become dispersed or lose focus over time based on ad hoc priorities focussing on the short term only. On the other hand it is clear that the further definition of concrete actions in this regard will need to take into account, in most cases, further experiences from the activities of the Agency as well as discussions on related policy initiatives.

## **6. THE PREFERRED OPTION**

Options 1 and 2 have major shortcomings to deliver on all of the policy objectives.

The Commission considers that the only possible way forward to work in a constructive manner towards an integrated EU policy on border management consists of choosing policy option 3 i.e. to implement short/medium term recommendations and to engage into a dialogue with EU Institutions, the Agency and relevant European and international partners to explore how the policy objectives can be met in the longer term based on a gradual development whilst keeping up with the available resources and the administrative capacity of the Agency.

Policy option 3 addresses in a comprehensive manner:

- - the identified shortcomings of the Agency;
- - the general and specific policy objectives;

- - a priority setting mechanism for the short term, covering all aspects of the activities in the current mandate;
- - an overall mapping of requests for enhancing existing actions or to develop new ones, without overloading the Agency with new and unforeseen tasks;
- - opening the discussion on policy orientations enabling FRONTEX to remain efficient for the long term.

## **7. MONITORING AND EVALUATION**

Monitoring and evaluation of the implementation of the future actions and measures set out in the preferred policy option will be an important element to ensure their effectiveness. All activities of FRONTEX are included in its work programme accompanied by indicators for each action, which allows for monitoring based on the annual activity report of the Agency. This will apply to the recommendations put forward here also.

A continuous monitoring of the activities of the Agency also takes place through the Management Board which meets, normally, six times per year, and through direct reporting by the Agency at meetings of the Council and the EP.

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COMMISSION OF THE EUROPEAN COMMUNITIES

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

**Report on the evaluation and future development of the FRONTEX Agency**

**22 491 characters**

**Draft 06.12.2007**

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

## Report on the evaluation and future development of the FRONTEX Agency

### I. INTRODUCTION

1. The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) was established by Council Regulation (EC) 2007/2004<sup>1</sup> (hereinafter the "FRONTEX Regulation"), adopted on 26 October 2004. The Agency became operational in October 2005.
2. The objective of FRONTEX is to improve the integrated management of the external borders of the Member States of the European Union by facilitating and rendering more effective the application of existing and future Community measures related to the management of external borders, i.e. the land and sea borders of the Member States and their airports and seaports, to which the provisions of Community law on the crossing of external borders by persons apply.
3. In the 2004 Hague Programme the European Council requested the Commission to submit an evaluation of the FRONTEX Agency by the end of 2007. The evaluation should contain a review of the tasks of the Agency and an assessment of whether the Agency should concern itself with other aspects of border management, including enhanced cooperation with customs services and other competent authorities for goods-related security matters. According to the Action Plan implementing the Hague Programme<sup>2</sup> the evaluation should also cover the functioning of the teams of national experts and the feasibility of a system of European border guards. This Communication is the reply from the Commission to this request.
4. This evaluation report is distinct from the independent external evaluation to be carried out pursuant to Article 33 of the FRONTEX Regulation. The independent evaluation will examine how effectively the Agency fulfils its mission, assess its impact and working practices, and take into account the views of stakeholders at European and national level. It will be commissioned by the Management Board of FRONTEX and will take place during 2008.
5. This Communication assesses the results so far, while taking into account the short period during which the Agency has been operational, in relation to each of the main tasks of FRONTEX as enumerated in Article 1 (a-g) of the FRONTEX Regulation<sup>3</sup>. It will make recommendations for measures that can be taken in the short term,

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<sup>1</sup> OJ L 349, 25.11.2004, p.1.

<sup>2</sup> OJ C 198, 12.8.2005, p. 1.

<sup>3</sup> As modified by Regulation (EC) 863/2007 of the European Parliament and the Council establishing a mechanism for the creation of Rapid Border Intervention Teams ("RABITs Regulation"), OJ L 199, 31.7.2007, p. 30.

within the limits of its current mandate, and outline a long-term vision for the future development of FRONTEX.

Detailed statistical data on the activities of FRONTEX 2006-2007 are presented in a separate annex, including information on objectives and results of each operation and further details on outputs in relation to the different activities of the Agency. An impact assessment is attached to this Communication.

## **II. EVALUATION - ACHIEVEMENTS 2005-2007**

### **A. Coordination of operational coordination between the Member States in the field of management of external borders**

#### *Joint operations and pilot projects*

6. The Agency has taken forward joint operations at all types of borders, with in 2006 and 2007 respectively 5 and 4 sea border operations, 2 and 10 land border operations, and 2 and 5 air border operations, and an additional 3 and 2 operations in 2006 and 2007 respectively covering several types of borders. A total of 10 pilot projects (2006-2007) have been implemented to complement the joint operations.
7. Participation by Member States in joint operations can range from the deployment of one expert to the deployment of equipment such as vessels and aircraft. On average, 7 Member States participated in sea border operations, 9 in land border operations, and 11 Member States participated in air border operations (2006-2007 taken together). For those sea border operations that have involved maritime patrols (7 in total 2006-2007), between 1 and 4 Member States have participated with equipment in the form of aircraft, vessels or helicopters in each of those operations, excluding the contributions of the host state, with between 0 and 2 vessels in each operation.
8. Due to the need for deployment of equipment in sea border operations the costs involved are substantially higher – on average 2,7 million euro – than for land and air borders respectively: 83 000 euro and 194 000 euro.
9. Results of joint operations cannot be summarised solely in quantifiable terms. There are other benefits such as exchanging best practices and information between Member States and stimulating day-to-day cooperation between national border guard authorities. Nevertheless the quantifiable results so far must be considered impressive: more than 53 000 persons, for 2006 and 2007 together, have been apprehended or denied entry at the border during these operations. More than 2 900 false or falsified travel documents have been detected and 58 facilitators of illegal migration arrested.

#### *Other related initiatives*

10. Following a request from the European Council in December 2006, the European Patrols Network (EPN) started in May 2007. FRONTEX and the Member States concerned (Portugal, Spain, France, Italy, Slovenia, Malta, Greece and Cyprus) are working on a regional basis with bilateral cooperation between neighbouring states. Patrols have mainly been limited to areas close to the coasts of the Member States involved.

11. As requested by the Council in October 2006 the Agency has set up a Central Record of Available Technical Equipment (CRATE), as foreseen in Article 7 of the FRONTEX Regulation, for border control and surveillance. The CRATE database contains for the moment over a hundred vessels, around 20 aircraft and 25 helicopters and several hundreds of border control equipment such as mobile radar units, vehicles, thermal cameras and mobile detectors. While primarily intended to be used on a bilateral basis between Member States, it provides an inventory of equipment that can be used in joint operations also. So far only a modest use of equipment has been made for the latter purpose, with one instance of using border check equipment and one using an aircraft.

#### *Recommendations*

12. FRONTEX has faced high expectations from EU institutions, Member States and the public at large to take forward operational coordination to counter illegal immigration at the southern maritime borders. As demonstrated by the results so far, these operations are the most cost-intensive and the most resource demanding of all the operational activities carried out by FRONTEX. The participation of Member States remains however limited in operations involving maritime patrols compared to other types of operations.
13. Against this background and since for 2008 the budgetary authority has raised the budget of FRONTEX significantly (total 70 million euro), the Commission considers the following factors essential as concerns the short-term developments of operational coordination:
- The potential of CRATE, and the commitments made by Member States, must be exploited to the full to ensure the availability of the necessary equipment for sea border operations. FRONTEX is invited to report regularly to the European Institutions on the actual use made of the equipment (for operations coordinated by FRONTEX as well as on a bilateral basis between Member States) and to what extent the equipment actually made available for joint operations is adequate in relation to the needs.
  - The FRONTEX Regulation provides for the possibility to set up specialised branches of the Agency in the Member States, through which the Agency may operate for the practical organisation of joint operations and pilot projects. In view of the developments towards semi-permanent operations and the evolution of the tasks for the Agency as a whole, serious consideration should now be given to the setting up of such branches in the appropriate regions and/or with regard to types of border control, with a priority given to a branch for the southern maritime borders.
  - FRONTEX should analyse how the semi-permanent joint operations can be merged with the European Patrol Network, as both measures are of a more structural character and overlaps between them must be avoided.
  - The Commission will review the multi-annual programming of the budget of FRONTEX for the remaining period of the current financial perspectives and submit proposals as appropriate to the budgetary authority.

**B. Assistance to Member States on training of their national border guards, including the establishment of common training standards**

14. The activities of FRONTEX in training follow from the previous Ad Hoc Centre for Border Guard Training, whose activities were fully taken over by FRONTEX on 31 December 2005. Including training of border guards as well as "training of trainers", a total of 97 trainings, meetings and workshops have been organised with a total of 1 341 participants. The common core curriculum, aiming at standardising the training of border guards all over Europe, is currently subject to review. While the impact of training activities can only be assessed in the long-term, it is clear that the approach chosen with FRONTEX acting as the operational coordinator for training for border guards based on partnerships with national academies has proven successful and therefore merits to be expanded.

*Recommendations*

15. The competences of border guards to apply in a correct and consistent manner the Schengen acquis including in particular the Schengen Borders Code must remain the key objective of the training activities of FRONTEX. However, the experiences gained from joint operations show that border guards are frequently confronted with situations involving persons seeking international protection or in distress situations at sea, as noted above in the section on operational coordination. The Commission considers that specialised training courses should be organised by FRONTEX on relevant provisions of European and international rules on asylum, the law of the sea and fundamental rights, in order to contribute to the full respect of these norms and to a consistent approach to situations involving search and rescue coordination.

**C. Carrying out risk analysis**

16. FRONTEX presented its first annual risk assessment in February 2007. A total of 13 tailored assessments have been presented up until August 2007, and a further 9 tailored assessments were under preparation for completion in late 2007 / early 2008. FRONTEX has been contributing to the Organised Crime Threat Assessment Report (OCTA) and has presented together with Europol a report on the high risk routes regarding illegal immigration in the Western Balkan countries. Beyond these assessments, which i.a. support Member States in reacting to new threats and in focussing resources to specific sections of the border, risk analysis plays a pivotal role in most activities of the Agency, including the planning of individual joint operations and also training activities. In addition the role allocated to FRONTEX under the European Borders Fund is crucial for the allocation of financial resources to the Member States.
17. In 2007 Frontex has been connected to ICONet, for the purpose of exchanging information with Member States regarding risk analysis, preparation of joint operations and return. The ICONet was established by Council Decision 2005/267/EC<sup>4</sup> and is operational since 2006. It is a secure web-based network for information exchange between the migration management services on irregular immigration, illegal entry and immigration and return of illegal residents.

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<sup>4</sup> OJ L 83, 1.4.2005, p. 48.

18. Frontex participates in the meetings of the CIREFI, the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration which meets regularly – normally once per month - in the Council. CIREFI assists Member States in exchanging information on legal immigration, in preventing illegal immigration and unlawful residence, on combating smuggling of human beings, improving the detection of false or falsified travel documents and on ways of improving return practices. There is an obvious overlap between the activities covered by CIREFI, the ICONet and the activities carried out by the Agency, with regard to gathering, analysing and disseminating information related to illegal immigration.

#### *Recommendations*

- Joint risk analysis with Europol, international organisations and relevant third countries (based on the respective working arrangements) should be given priority, including more frequent geographical and/or theme oriented joint risk analysis, with relevant partners.
- FRONTEX should be entrusted with
  - the management of the ICONet, under the present or another technical platform such as the Frontex Information System; this should also aid in ensuring that better use is made of the immigration liaison officers network, which is also connected to the ICONet; and
  - taking over the activities of CIREFI.

#### **D. Follow up on the development of research relevant for the control and surveillance of external borders**

19. FRONTEX has so far implemented 6 projects and 7 workshops/seminars on research and development. New technologies play a vital role for the proposals made in the two Communications presented by the Commission in parallel with this report, on an entry-exit system and measures to automate border control and on a European Border Surveillance System. For the former the BIOPASS project implemented by FRONTEX on the use of biometrics at airports and national registered traveller's schemes provided important input, and for the latter FRONTEX will play an important role in taking forward the relevant studies that will shape the precise actions to be taken.
20. The Agency will also take an active part in the work of the new European Security Research and Innovation Forum, under which a separate working group on border security has been set up.

#### *Recommendations*

21. A key priority for the future must be to ensure that the specific interests of border control authorities are duly reflected in research activities. FRONTEX has a unique role in ensuring that the practical needs of national border guard authorities can feed into the definition of future research priorities, as well as for keeping those authorities informed of the latest developments through the organisation of workshops. This role should also extend to the development of practical projects aiming at real life operational testing of new technologies, to assess their feasibility



and impact on current procedures and to liaise with the European standardisation institutes.

**E. Assisting Member States in circumstances requiring increased technical and operational assistance at external borders, and deploying Rapid Border Intervention Teams**

22. The RABITs Regulation, which entered into force on 20 August 2007, has changed in a substantial manner the provisions of the founding Regulation of FRONTEX regarding the support to Member States in circumstances requiring increased technical and operational assistance at the external borders. It provides a "rapid reaction capacity" for a reinforcement of human resources to a Member State in need.
23. The preparatory works for implementing the Regulation were completed by Frontex shortly after the Regulation was adopted. 500-600 border guards make up the "RABIT pool". An exercise was conducted during the autumn of 2007. So far no Member State has made a request for the deployment of a RABIT team.

*Recommendations*

24. The deployment of a RABIT team can be combined with technical assistance in accordance with the provisions of Article 8 of the FRONTEX Regulation. The Commission recommends that this provision be made more operational by FRONTEX acquiring its own equipment for border control and surveillance, to be used by the RABIT teams, in order to ensure the availability of equipment at short notice. Alternatively, equipment listed in CRATE could be used for this purpose also, but the rules would need to be reviewed in order to ensure speedy and unconditional availability of the equipment for the RABIT teams.

**F. Providing Member States with the necessary support in organising joint return operations**

25. The Agency has provided assistance for the organisation of nine joint return operations, involving a total of 361 returnees. A further 6 projects have been taken forward on issues such as best practices for the acquisition of travel documents and in order to regularly identify common needs for joint return operations.
26. The strengthening of the role of FRONTEX in supporting joint return operations was the subject of an in-depth discussion during the German Presidency, resulting in the adoption by the Council of a set of conclusions in June 2007. The conclusions included a call for Member States to involve Frontex when planning and organising joint return flights and Frontex to identify needs for joint returns. This is a key task of FRONTEX, but results so far show that the frequency and intensity of that support is lagging behind the progress made with regard to operational coordination.

*Recommendations*

27. The Commission fully supports the implementation of the Council conclusions of June 2007, which provide an exhaustive set of priorities for the short to medium term. The recommendation put forward in this report (see section II.C above) for FRONTEX to take over the management of the ICONet will contribute to enhancing

the capacity of FRONTEX for this purpose also. In addition, consideration should be given to reviewing the scope of Article 7 of the Frontex Regulation on the centralised record of technical equipment, which for the moment is limited to equipment for border control and surveillance but which could be extended to also cover equipment, including equipment leased by FRONTEX, for joint return operations, such as aircraft.

### **III. LONG-TERM VISION**

28. FRONTEX will be central for the long-term development of the Union's integrated border management strategy. Its role should be expanded as necessary in response to concrete needs, based on a step-by-step approach and a gradual reinforcement of its administrative capacity, and on a continuous evaluation of how it fulfils its tasks. A long-term vision should consider how FRONTEX can provide added value to the integrated border management model as a whole as well as to its individual components, in particular with regard to measures in cooperation with third countries and to measures at the borders.
29. As concerns the integrated border management model as a whole, the potential of FRONTEX should be exploited for the benefit of the overall Schengen framework. While the scope of issues covered by the mechanism for Schengen evaluations goes beyond the mandate of FRONTEX – covering also visas, police cooperation and data protection - it is clear that FRONTEX could provide added value to these evaluations through its independent status, its expertise on external border control and surveillance and its activities on training and risk analysis. The Commission will present a proposal in the second half of 2008 for a complementary mechanism for evaluating existing Schengen states, which will include concrete proposals with regard to the role of FRONTEX.

#### **A. Measures in cooperation with third countries**

30. The mandate of FRONTEX as concerns cooperation with third countries is limited in the sense that projects aiming, for example, at technical assistance cannot be carried out by Frontex in third countries. Consideration should be given to whether Frontex should have the possibility of carrying out pilot projects with third countries as beneficiaries. Such projects could significantly strengthen the impact of cooperation launched under the working arrangements, where the latter can serve to identify concrete needs for capacity building with regard to border management in specific third countries, and be complementary to assistance funded through Community programmes. At a later stage, and against the background of the new EU Treaty, a reflection could be initiated on what role the Agency can have regarding the participation in European border control missions conducted in third countries.
31. FRONTEX has concluded working arrangements aiming at establishing cooperation at technical level with border guard authorities in Russia, Ukraine and Switzerland. Negotiations are well advanced with Croatia. Mandates have been given by the Management Board to negotiate further arrangements with FYROM, Turkey, Egypt, Libya, Morocco, Mauritania, Senegal, Cape Verde, Moldova and Georgia. The Agency foresees requesting mandates in the short/mid-term for the other Western Balkan states, countries of West Africa, the US and Canada. In the short-term,

priority should be awarded to strengthened cooperation between FRONTEX and those third countries that have been identified as problem areas through the joint operations and the risk analysis carried out by FRONTEX.

## **B. Measures at the border**

### *Horizontal integration*

32. An improved cooperation between the relevant customs and border control authorities of the Member States is a key element of the integrated border management model, having regard to that persons and goods are controlled using similar working methods and risk management approaches. A further analysis of the single window concept, where the activities of border and customs authorities are fully integrated with each other, should be pursued taking into account the on-going evaluation of the future of customs.
33. The Commission will launch a study for the purpose of identifying best practices in Member States on inter-agency cooperation. To promote cooperation on the ground, pilot projects at European level could further explore the added value of deepened coordination of the activities between these authorities. The Commission recommends FRONTEX and Member States to conduct FRONTEX-led joint operations in coordination with cooperation projects of national customs authorities, ie the implementation of two parallel projects on control of persons and on control of goods respectively at the same time and at the same border crossing points.

### *Border surveillance - EUROSUR*

34. In parallel with this current evaluation report the Commission presents a Communication outlining a roadmap for the development and setting up of a European Border Surveillance System. The role of FRONTEX is crucial for the successful preparation of such a system, as already noted in the section devoted to research and development in this report.
35. In more operational terms FRONTEX could take on the role as a "hub" for an improved system of exchange of real-time, operational information between Member States. In addition, giving FRONTEX access to surveillance information in a more systematic and structured manner could serve as the basis for the development of a 'FRONTEX intelligence led information system' targeting the external borders of the EU.

### *Operational coordination*

36. Operational coordination has already proved itself the key instrument of the European Union in ensuring operational solidarity between Member States and channelling resources to the sections of the external border with the greatest needs. As stated in the impact assessment accompanying the RABIT proposal, the Commission intends to return to the question of a fully fledged European Border Guard when experiences have been gathered on the functioning of those teams. It is nevertheless clear that two questions arise already at this stage concerning the organisation of operational coordination in the long term, as concerns maritime patrols.

37. Firstly, how the current system of allocating resources to those sections can be further improved. The Commission will keep under close review the extent to which sufficient equipment and human resources can be put at the disposal by Member States, using current mechanisms, and the degree of reinforcement that the European Borders Fund can provide in the longer term to individual Member States based on the risks at the external borders.
38. Secondly, the cost-effectiveness of the current mechanisms will need to be reviewed in the long-term also having regard to, for example, the administrative costs involved in ensuring the coordination of the deployment of assets and human resources on an ad hoc basis.
39. Further practical experiences will feed into a long-term strategy which will need to consider to what extent coordination of Member States' resources should be replaced with the assignment of border guards and equipment on a permanent basis. A deployment of that nature may call for reviewing the legal framework as concerns the executive powers of the members of RABITs teams and guest officers, and for assessing whether FRONTEX should employ border guards itself and/or whether it should acquire and/or lease equipment for the purpose of permanent operations.

#### **IV. CONCLUSIONS**

40. The Commission invites the Council to prioritise a discussion on the recommendations of a short-term nature put forward in this report, having regard to the need to maximise as soon as possible the contribution of Frontex for the management of in particular the southern maritime borders of the Union. The recommendations related to the role of Frontex in Eurosur should also be taken forward with priority based on the separate Communication presented by the Commission on the establishment of such a system.
41. On that basis an in-depth discussion should be launched on the longer term strategy to be pursued by the Union with regard to the role Frontex is expected to play in the development of the integrated border management model, including the reinforced cooperation mechanism with third countries, and in ensuring a sound management of migration flows.
42. Taking into account the outcome of these discussions and the results of the independent evaluation to be carried out pursuant to Article 33 of the Frontex Regulation, the Commission will consider presenting legislative proposals to amend the Frontex Regulation. In the longer term it will take into account future experiences gained in relation to the new rules on executive powers of members of RABIT teams and guest officers in order to review the need for revisiting the overall legal framework for operations coordinated by FRONTEX.



Brussels, 3 December 2007  
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## Opinion

**Title**                      **Impact Assessment on: Evaluation and future development of  
FRONTEX**

**(draft version of 9 November 2007)**

**Lead DG**                      **DG JLS**

### **1) Impact Assessment Board Opinion**

#### **(A) Context**

The Hague Programme of 2004 requested the Commission to submit an evaluation of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) to the Council before the end of 2007. This evaluation should contain a review of the tasks and mandate of the Agency and an assessment of whether the Agency should concern itself with other aspects of border management, including enhanced cooperation with customs services and other competent authorities for goods-related security matters. This evaluation is distinct from the one foreseen in article 33 of the FRONTEX Regulation, which will be carried out by the Management Board of the agency in the course of 2008.

#### **(B) Positive aspects**

The background notes in the annex on the current functioning of FRONTEX and on the political background are well-written and useful, and may be referred to more often throughout the IA report.

#### **(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 provide a complete assessment of each individual measure, and more specifically improve the analysis of impacts on Member State budgets, administrative burdens, and third countries. It should furthermore clarify the link between this evaluation and that done FRONTEX itself. During its meeting with the Board, DG JLS agreed to make improvements to**

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**the IA report on all of the following points:**

**(1) Each measure under option 2 should be individually assessed and the status of the measures under option 3 should be clarified.** Considering that options 2 and 3 are packages of measures which are bundled on the basis of the term in which they could become effective, the IA report should justify for each component that the proposed action is the best of all options available. In order to do this, all the other feasible sub-options should be identified and assessed, notably as regards subsidiarity (and make it clear where the legal basis for the proposed action already exists) and expected costs and benefits (including possible efficiency gains from acting at EU level). The measures under option 3 reflect longer term possibilities. This requires less analysis at this stage, but the IA report should make it clear that the fact that they are mentioned now does not mean that the Commission commits itself to delivering them without further impact assessment work, if at all.

**(2) The impacts on national budgets, administrative burdens, and third countries should be assessed in more detail.** The IA report does mention that some of the envisaged measures will have a bearing on Member State budgets, and it should attempt to estimate these as good as possible with the available data rather than just qualifying these as "low" or "significant". It is appropriate for the IA report to refer to the fact that a certain measure is proposed on the request of Member States and/or the Council, but also in such cases the IA report should still aim to estimate and justify this expenditure. Impacts on administrative burdens, third countries, and on the fundamental rights dimension should be addressed.

**(3) It should be better explained how the various evaluations relate to each other.** In the problem definition the IA already comments on the difference between the present evaluation and the one that will be carried out by the management of FRONTEX in 2008. This explanation should be made more precise, for instance by explaining what it means that the present evaluation is of a political nature, and how well it connects with the request that was initially made by the European Council.

**(D) Procedure and presentation**

The IA report should more clearly explain what external and internal consultations have taken place, and whether these have been sufficient to involve all interested parties.

## **2) IAB scrutiny process**

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External expertise used	No
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