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**NOTE**

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from:	Belgian delegation
to:	JHA Counsellors / COSI Support Group
No. prev. doc.	6975/10 ASIM 33 FRONT 129 COMIX 158
Subject:	Final report and recommendations of Project Group "Measure 6"

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In the context of the **29 measures for reinforcing the protection of external borders and combating illegal immigration** (6975/10), the Project Group on Measure 6 has produced its final report.

The objective of this Project Group "**Measure 6**" is:

*"To improve the collection, processing and systematic exchange of relevant information between FRONTEX, other EU Agencies and Member States".*

Delegations will find attached the final report including descriptive flowcharts (about the different information flows between stakeholders)? a list of recommendations and **the relevant actors (point 6 regarding the monitoring of these recommendations).**

## FINAL REPORT

### 1. INTRODUCTION

At the JHA Council meeting on 25 and 26 February 2010 the Council adopted conclusions on 29 measures for reinforcing the protection of the external borders and combating illegal immigration. The Belgian delegation was entrusted with the task of establishing a project group regarding measure No 6 (“**to improve the collection, processing and systematic exchange of relevant information between FRONTEX, other EU Agencies and Member States**”).

Leadership of the project within the Belgian Federal Police was assigned to the Directorate of Administrative Police Operations (DAO).

Besides the participation of the representatives of EE, FI, UK the project group was assisted by experts from the EU Agencies involved (FRONTEX, EUROPOL and EUROJUST).

The project group also took the opportunity to present a first intermediate inventory of the information flow during the first FRONTEX ‘one stop shop’ forum held in Bruges on 3 November 2010 with representatives of 18 Member States<sup>1</sup> attending. The participants in the meeting were asked to give their opinion of the work done to date and to help detect any possible gaps in the exchange of relevant information emerging from the presentation of the current situation.

Most of the work was done with a limited number of participants and meetings were combined with extensive use of correspondence in order to be productive and to allow other interested parties to be consulted if needed.

### 2. AIM OF THE PROJECT

The provisional proposal and the different steps which had to be taken by the project group were explained in 14011/10 (COSI 60) of 24 September 2010. These steps were as follows:

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<sup>1</sup> UK, SE, ES, SI, PL, MT, LV, LT, NL, HU, DE, AT, BG, CZ, DK, FI, EE, FR.

- a. To form an accurate picture of the current situation of the information gathered and/or processed within the MS and the abovementioned EU agencies and bodies on illegal immigration, illegal immigration networks and trafficking of human beings and, as a longer-term objective, other forms of cross border crime covered by integrated border management (IBM).
- b. To make an inventory of
  - i. the existing data collection plans (tasked and routine) in the different agencies and bodies and the contribution of the Member States;
  - ii. the existing analytical plans in the different agencies and bodies;
  - iii. the existing intelligence products in the different agencies and bodies, and the use of them in the Member States (and other needs);
  - iv. the practical information flow regarding a FRONTEX joint operation and EUROPOL AWF<sup>1</sup>;
- c. To detect the gaps.
- d. To make recommendations to improve the gaps detected (comparison between current and desired situation).
- e. With the overall aim of providing input on the development of a joint intelligence model to enforce the measures against illegal immigration, illegal immigration networks, and trafficking of human beings and, as a longer-term objective, other forms of cross border crime covered by integrated border management.

During the first meeting of the project group, held in October 2010, it was decided to re-define the aim of the project by omitting the last step and only making recommendations to improve the gaps detected.

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<sup>1</sup> Analytical Work File

### 3. PICTURE OF THE CURRENT SITUATION

An inventory of the current situation of the information flow between the Member States, FRONTEX, EUROPOL and EUROJUST has been made and translated into a chart showing the connexion and exchange of documents between the partners. This chart is appended to the present document and accompanied with an explanatory note. This inventory distinguishes between strategic and operational information and shows the two major flows between the Member States and the EU agencies and bodies.

The project group wanted as much detail as possible on the global process of information processing and examined the flow between the partners on the basis of the following distinctions between 7 clusters:

- a. Flow of strategic information
- b. Flow of operational information (planned)
- c. Flow of operational information (routine)
- d. Flow of information with EUROPOL (operational analysis)
- e. Flow of information with EUROPOL (strategic analysis)
- f. Flow of information with EUROPOL (operational support)
- g. Flow of information with EUROJUST

The main goal was to identify the gaps in this information flow and to detect the missing links between all the partners.

Therefore, each cluster was analysed from the point of view of each partner (FRONTEX, EUROPOL, EUROJUST and Member States) and from a global point of view in order to identify these missing links and gaps.

#### 4. DETECTED GAPS

- Frontex RAU<sup>1</sup>, in particular Sector 1, collects statistical data on a monthly basis and other relevant information from Member States such as an analysis of a specific incident considered by a MS to be worth to be shared with other MS, via the FRAN network<sup>2</sup> for the development of strategic documents such as the ARA, SARA, FRAN Quarterly or Tailored Risk Analysis. The channel used for the statistical data and particular description of certain incidents is ICONET<sup>3</sup>, a secure information exchange platform. In addition, Frontex RAU, Sector 2 Operational Analysis and Evaluation, receives data gathered during Joint Operations via the FSC<sup>4</sup>, which serves as a central point of entry for the whole of Frontex and as a platform to process but not analyse data submitted during JO. This data is submitted via FSC to RAU S2 and JOU<sup>5</sup> with a mailing system. Member States participating in or hosting Joint Operations, submit on a daily basis statistical data in the form of Incident Reports and Daily Incident reports via an established ICC<sup>6</sup> or LCC<sup>7</sup> to FSC and further to RAU and JOU<sup>8</sup>. The definitions of the collected indicators are the same, but there are more variables (such as airport of origin). Each information flow has its own template to be completed. As well as emails, the Frontex situation centre uses the Frontex One-Stop-Shop (a web-based information sharing portal) for dissemination of information to Member States and Schengen Associated Countries.
- Besides Frontex, **EUROSTAT also collects data** from national statistical institutes regarding illegal migration. Both organisations have defined the indicators for data collection in an analogous manner. However Frontex collects, in addition to statistics collected by Eurostat, additional indicators which are not part of the Eurostat collection plan. Moreover the timing of the data collection is entirely different. Eurojust collects data annually whilst Frontex data collection plan is based on the availability of data on a monthly basis for further analysis. Again, this data is collected **in yet another format**.

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1 Frontex Risk Analysis Unit  
2 Frontex Risk Analysis Network  
3 Encrypted mailing system  
4 Frontex Situation Centre  
5 Frontex Joint Operation Unit  
6 International Coordination Centre  
7 Local Coordination Centre  
8 Joint Operations Unit

- **The requested data is not readily available** at national level. Border control units transfer their data to the central level once a month (from their own database). The central level processes each contribution into a central database. From this database the statistics are extracted to feed the template which is sent to Frontex to be processed into a Frontex database. Almost all Member States are able to provide Frontex with the data as requested in the template. The diversity of data emerges due to different national legislations and definitions used in the Member State.
- Personal data collected during joint operations or routinely during border checks are not systematically transferred by Member States to EUROPOL, which could allow better analysis (it is estimated that **90% of the available data is not transferred** in view of the fact that these data do not concern organised crime and are considered to be unreliable).
- There is **no real impact analysis of the intelligence products** provided by EUROPOL. Frontex develops weekly analytical assessments, analytical warnings for operations or other intelligence reports during the operational implementation of Joint Operations. These assessments have an impact on the tactical planning of the JO in real time or recommendations included in this assessments affect the deployment of GO<sup>1</sup> or technical equipment during the next implementation phase of the JO. The current prohibition for Frontex to process personal data limits the impact of the analytical assessments of Frontex for criminal investigations . The findings of an AWF could be input for a joint operation or a request to collect more data (tasked).
- AWF do not give information about THB<sup>2</sup> issues which can be used by Frontex for **profiling of victims and their traffickers** at the borders.
- Frontex is able to react with a joint operation at a specific area of concern (in response to analyses). The possibility for Frontex to react at the level of border control on networks or on targeted persons will only exist if the possibility to process personal data may be granted in the future.
- For their integrated border control Member States should be provided with **integrated intelligence on different criminal activities**.
- EUROPOL's knowledge (namely data) depends on what comes from the Member States.
- When there are significant joint operations involving many airports, for example, **EUROPOL does not have enough capacity to follow all operations**.

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<sup>1</sup> Guest Officers

<sup>2</sup> Trafficking in human beings

- The collected data do not necessarily go to the right person or service within the Member States
- Frontex and EUROJUST are not connected to Siena<sup>1</sup>; should they be?
- Frontex evaluation reports are not systematically sent to EUROPOL
- **Frontex is not involved in the preparation of JIT<sup>2</sup>**. It may be interesting to see how the agencies can collaborate in this context.
- Not all Member States share the view that EUROJUST should be informed of all JIT.
- The information and data collected by the competent authorities in the Member States during joint operations are sent twice to different stakeholders (incident reports from JO are sent to FSC, without personal data and to in addition to EUROPOL with personal data) This way of working, which derives from the limitation for Frontex in processing personal data might usefully be simplified if such legal limitation is removed in the future.
- The Focal Points activated send information to Frontex which processes and analyses the incoming data. Feedback to the Focal Points and GO on spot is provided by a daily Situation report which is developed by the FSC.. The Member States find that it is only a ‘one-way’ exchange, especially in data reporting, and would like to receive RAU analysis upon request.
- We lack a framework at EU level for what has to be shared between the EU agencies, bodies and Member States.
- There is no comparative inventory of products available in each Member State.
- During joint operations communication takes place between ICC/LCC<sup>3</sup> and Frontex units involved, but NFPOC<sup>4</sup> is not included in it.

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<sup>1</sup> EUROPOL Secure Information Exchange Network Application

<sup>2</sup> Joint Investigation Team

<sup>3</sup> International /Local Coordination Centre

<sup>4</sup> National Frontex Point of Contact

An analysis of the chart appended to this document shows the existence of two major flows of information:

- An operational information flow between the Member States on the one side and FRONTEX and EUROPOL on the other.
- A strategic information flow between FRONTEX and EUROPOL.

This restricted flow between FRONTEX and EUROPOL is due to the cooperation agreement signed between the two agencies. This agreement is of a strategic nature and allows only the exchange of non-operational information. Nevertheless, the operational support offered by EUROPOL to the Member States and Schengen Associated Countries during Joint Operations organised/coordinated by FRONTEX generates operational information exchange.

## 5. RECOMMENDATIONS

- a. The existence of multiple channels of communication between two partners can create real communication problems. In the case of the exchange of information (input and output) between Member States and the departments of Frontex (FSC, RAU and JOU), procedures and tools currently in use may give the impression that the same information is transmitted several times in different forms. However the development of the JORA<sup>1</sup> and the future development of the FIS<sup>2</sup> will contribute to harmonise information collection and information gathering functions.

A first recommendation for those communication channels is to opt for a **single entry point via a single channel (tool) for operational information**. The implementation of the FIS will allow better coordination of information gathering for Frontex in general. These technical developments will also contribute to the policy of entering information at a single point at Frontex. .

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<sup>1</sup> Joint Operation reporting Application

<sup>2</sup> Frontex Information System

- b. The data collected by EUROSTAT are not of the same nature as those needed by Frontex. For instance, Frontex data collection includes information on illegal border crossings which are not part of the EUROSTAT data collection. EUROSTAT collects most of the required data from national statistical institutes. Member States must therefore ensure that the transmitted data are consistent with the needs of both agencies. It would also be useful for all agencies to agree on **common definitions and working terms** and on a **single data collection form** that can be used by the Member States. This joint approach would fit perfectly into the EUROPOL – Frontex Cooperation Plan<sup>1</sup> and with the wish to develop a **joint module on intelligence and evidence collection** in border control settings.
- c. Regarding an EU-level legal framework to consider closer collaboration between agencies and the exchange of information between them, initiatives should be taken by the Council and COSI to further develop the cooperation referred to in the Council Conclusions on the creation and implementation of the EU policy cycle for organised and serious international crime.
- Such an **integrated approach** would require enhanced cooperation and coordination among the EU agencies and among Member States. This integrated approach would also be a response to the gap detected by the Member States concerning the need for **integrated intelligence on different criminal activities**. For example, due to the convergence of routes exploited by organised crime, information exchange about transport and modi operandi can be useful for both agencies and investigators in the Member States.
- d. Concerning the exchange of information between the agencies, use of a **secure communication link** is recommended. A consensus must be found among the partners on the network to be used. It would be advisable to work with existing tools such as SIENA, ICONET and develop the FIS.

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<sup>1</sup> ‘EUROPOL – FRONTEX Cooperation Plan’ concluded on 1 October 2009 (Europol file number 3710-588)

e. As far as the availability of the requested data is concerned, this problem must be solved within each Member State in close cooperation with EUROPOL and FRONTEX. The central level of each Member State must **define rules** (schedule) to ensure that it receives data from the different border control units regularly and has enough time to process each contribution into a central database and feed the FRONTEX template. However, this problem detected by the Member States does not seem detrimental to the work of Frontex in terms of strategic analysis. On the other hand, regarding the comment on the data sent to EUROPOL and the fact that the personal data collected during Joint Operations or routinely are not systematically transferred to EUROPOL, we believe that it should be possible to request the EUROPOL National Units to receive all the collected data. Knowing that EUROPOL is also competent for criminal issues other than THB and that some moduli and transportation routes used by traffickers are linked, it seems important that EUROPOL be able to use all relevant information in its AWF in order to detect connections between different organised crime groups which are seeking to take advantage of vulnerabilities at the EU external borders.

It would also be useful for the Member States to promote inter-agency cooperation at national level (ENU and NFPOC) by raising **awareness among national competent authorities** about the need for disseminating their respective products (during operations or routinely).

f. Better transfer and encoding of the available data as mentioned above would allow EUROPOL to produce better strategic intelligence products regarding THB issues. These products could have a real impact on the work of FRONTEX from a strategic point of view (ARA, etc.) as well as from an operational one (Joint Operations). These products could be considered as input for **proactive intelligence-led operations** in which EUROPOL should have the opportunity to engage capacity to collect more data and to cover existing gaps in AWFs.

This would also give Frontex the opportunity to react quickly at a specific area of concern on networks or on targeted persons, if the new Regulation allows the Agency to process personal data for operational purposes.

On the other hand, it would be useful to both agencies to have a **comparative inventory of all the products** available in each Member State and in each agency for the purpose of knowing what can be shared between all the partners. This inventory could also give opportunities to detect ‘missing information’, to avoid duplication or to improve systematic cooperation between the EU Agencies and Member States.

- g. As far as operations are concerned, there must be better cooperation between agencies. Regarding JITs and cooperation with Frontex in this context, the agency must at least be involved in operational briefings, with the aim of giving information and discussing possible collaboration during the operation (It is also for this reason that Frontex has left room for deployment of guest officers in its ‘programme of Work 2011’). EUROPOL could provide relevant input to the planning or to the preparation of Frontex JO. The Support and Coordination Centre of EUROPOL based in The Hague or the EUROPOL National Units could also take part in these operations in order to build capacity in the field.

This kind of cooperation between the two agencies must be translated into a **common activity programme**. The current cooperation is too ‘ad hoc’ and such an activity programme could improve more formal cooperation between all agencies and **avoid the risk of duplication** (coordination of effort). On the basis of Article 13 of the EJ decision <sup>1</sup>, EUROJUST should also be informed of the setting up of JITs.

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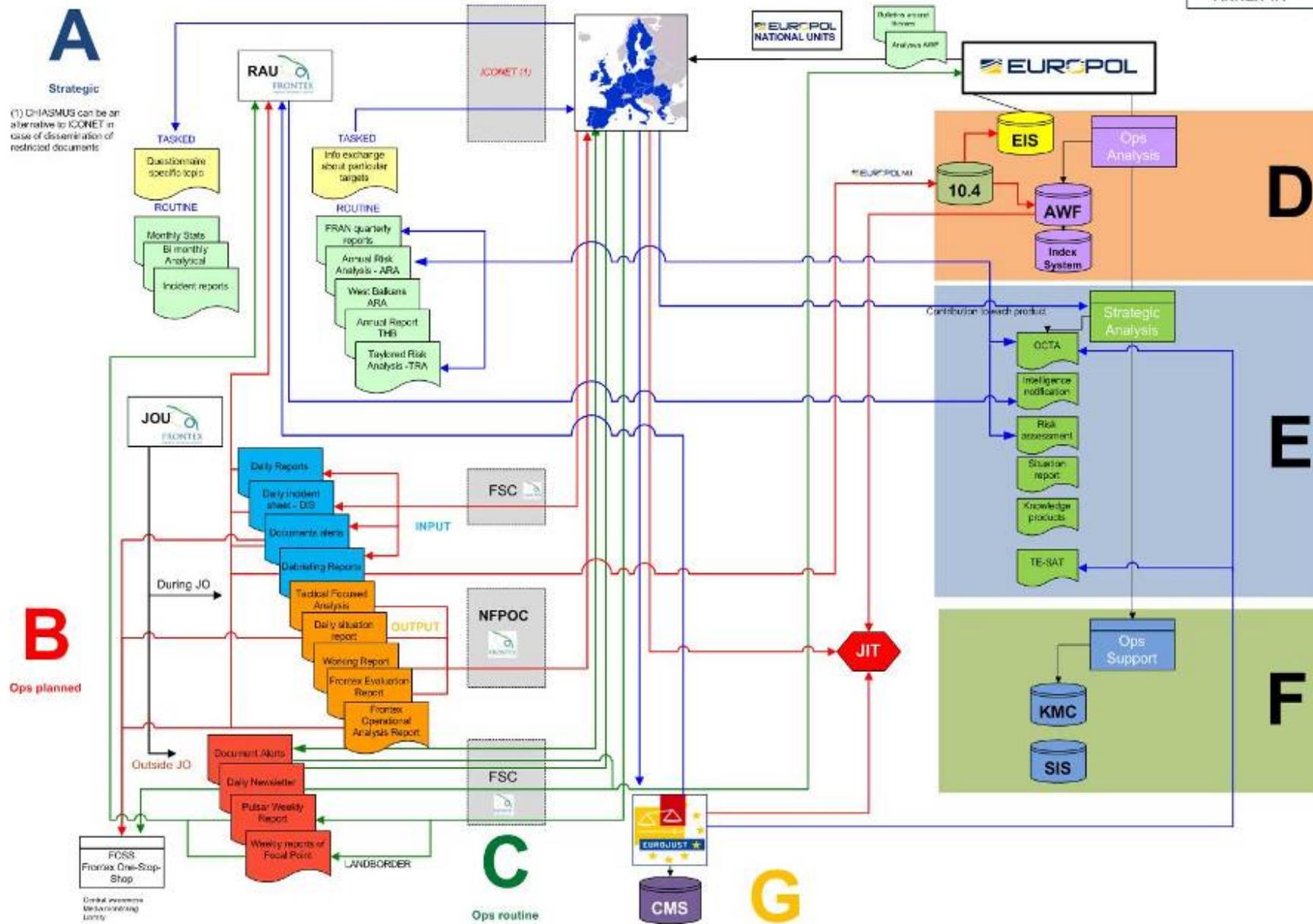
<sup>1</sup> 5347/3/09 REV 3 of 15/07/2009 - Council Decision on the strengthening of Eurojust and amending Council Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime

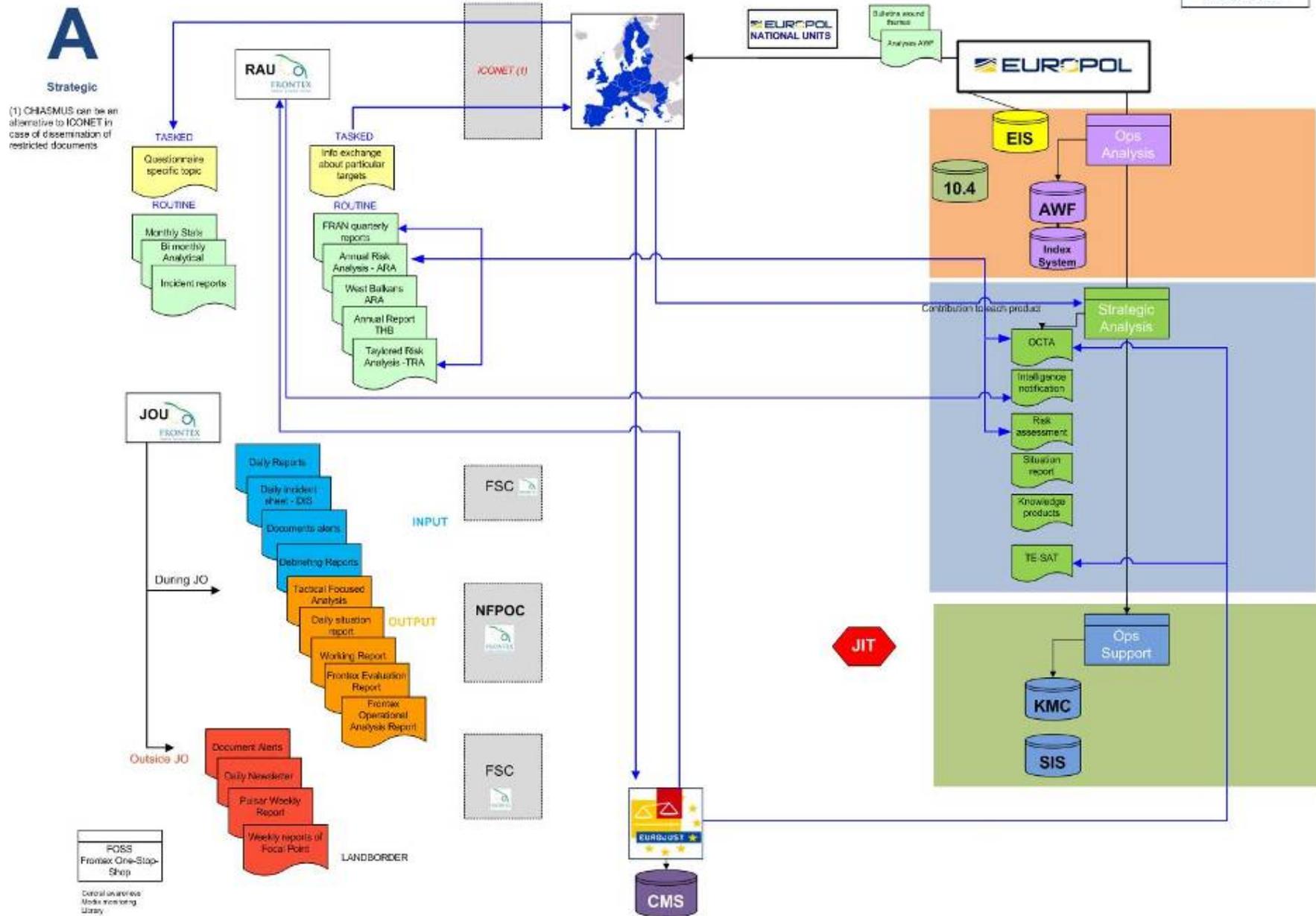
## 6. IMPLEMENTATION OF THE RECOMMENDATIONS / FOLLOW UP / WAY FORWARD

Recommendations	Short term	Medium term	Long term	Responsible	Partners
a) Single entry point			X	FRONTEX	
b) - common definitions and working terms; - single data collection form - joint module on intelligence and evidence collection	X	X	X	FRONTEX EUROPOL EUROSTAT	MS
c) Integrated approach		X	X	COSI	Agencies
d) Secure communication link		X		FRONTEX EUROPOL	
e) availability of the request data / definitions of rules (schedule) at national level / Awareness among national competent authorities		X		MS	
f) comparative inventory of all products	X			FRONTEX EUROPOL	
g) - Involving Frontex in operational briefings JIT's	X			EUROPOL EUROJUST	

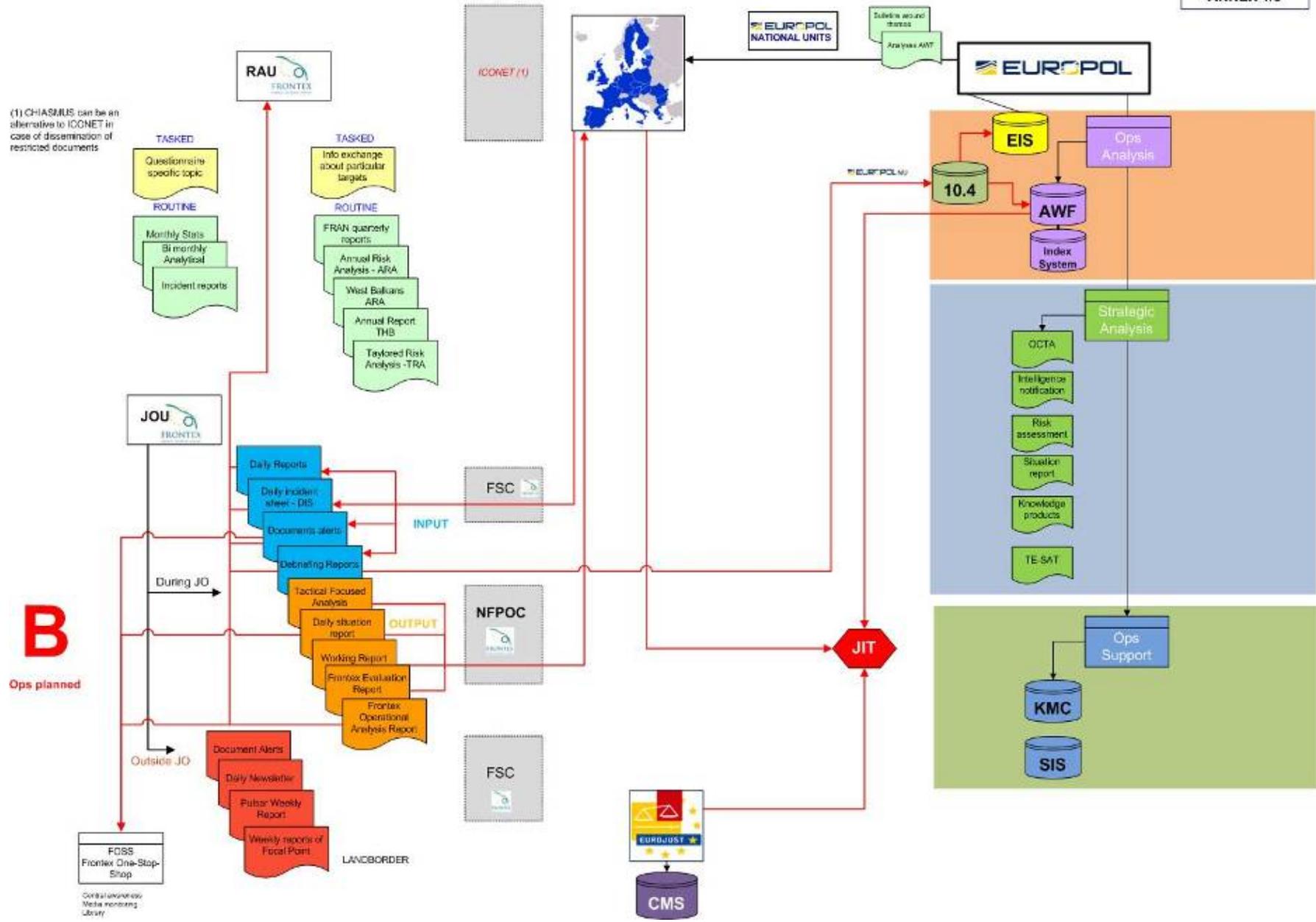
- Common activity programme		X	X	FRONTEX EUROPOL	
- Information of Eurojust of the setting up of JIT's	X			MS	

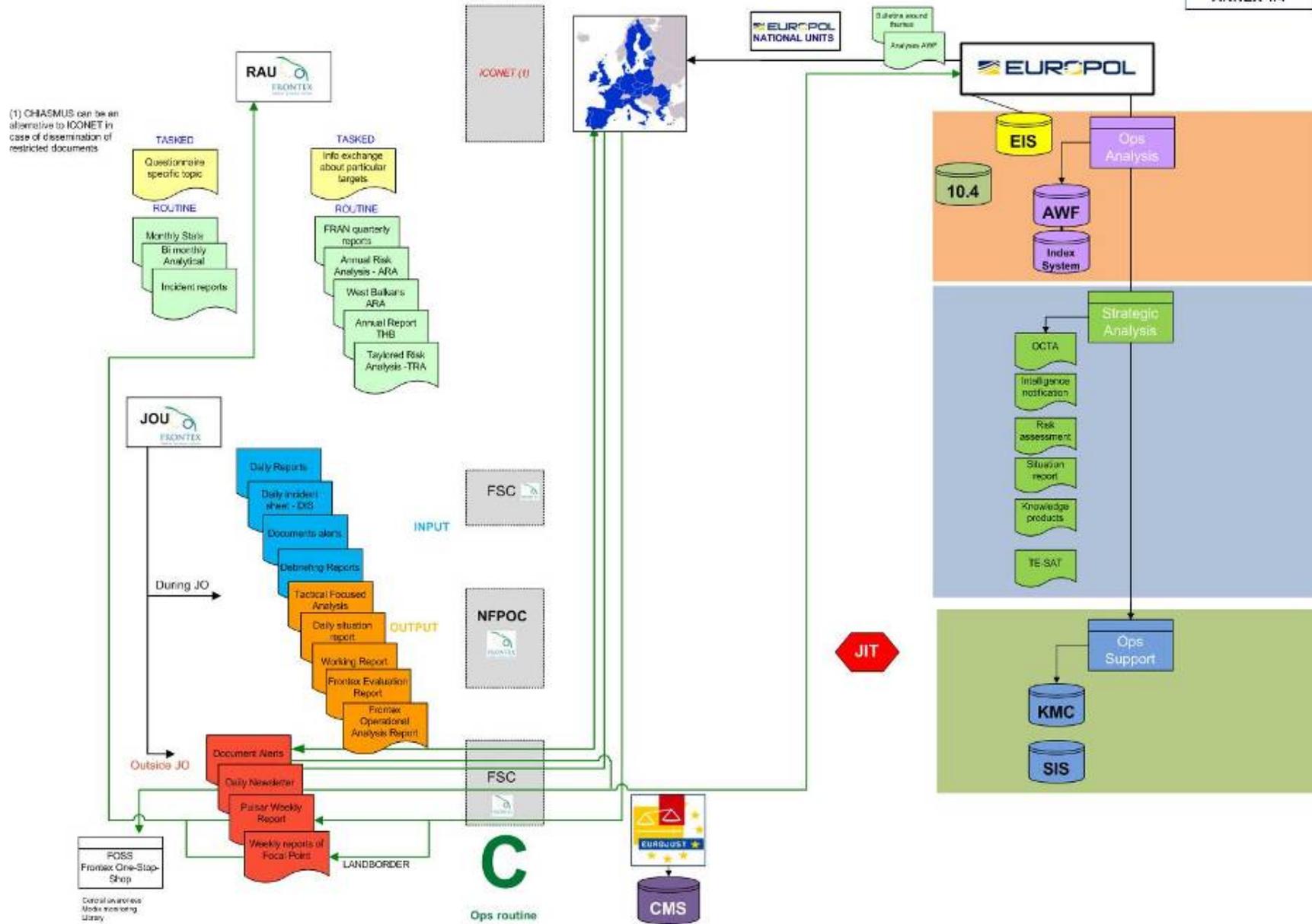
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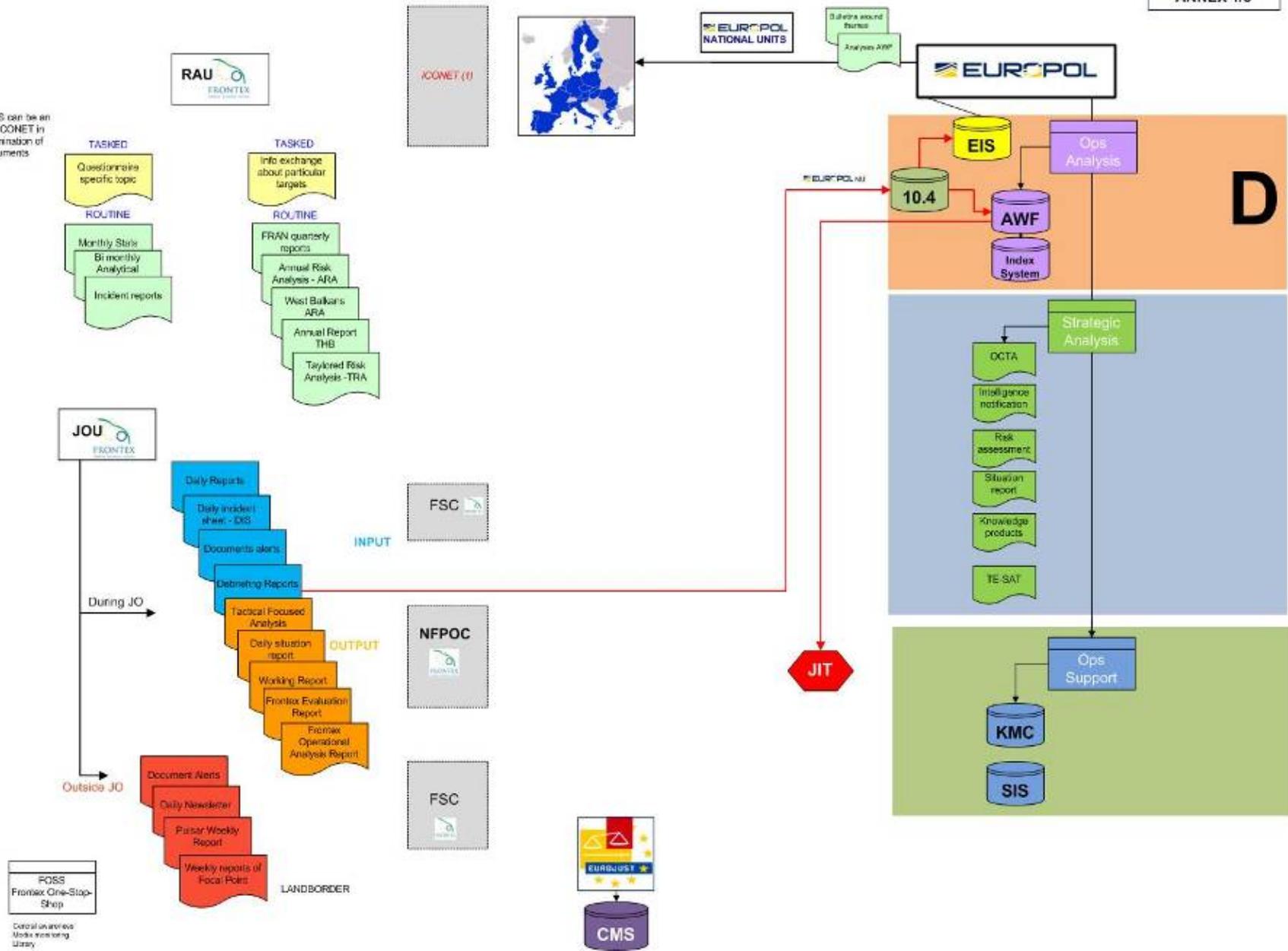


(1) CHIASMUS can be an alternative to ICONET in case of dissemination of restricted documents

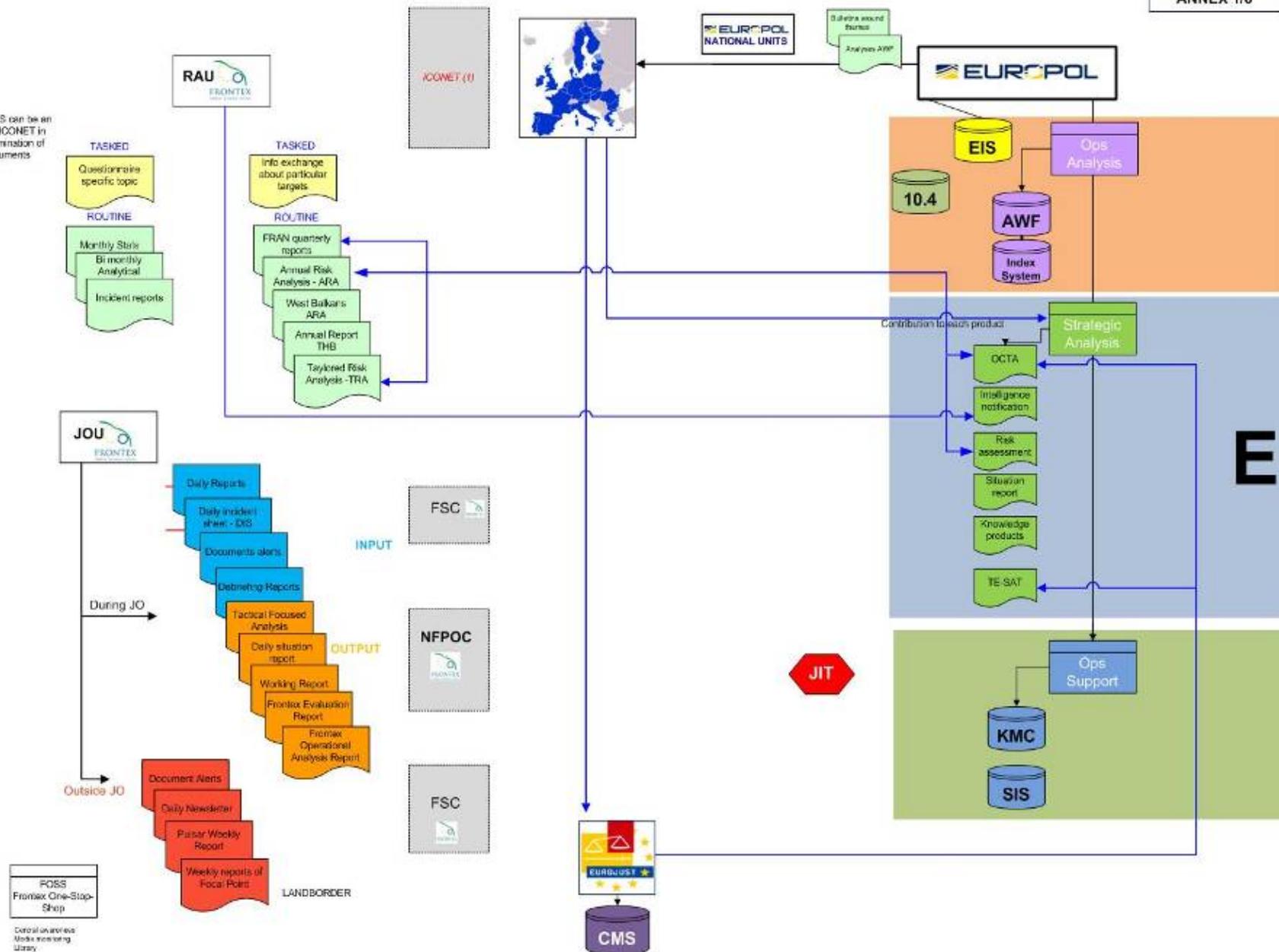




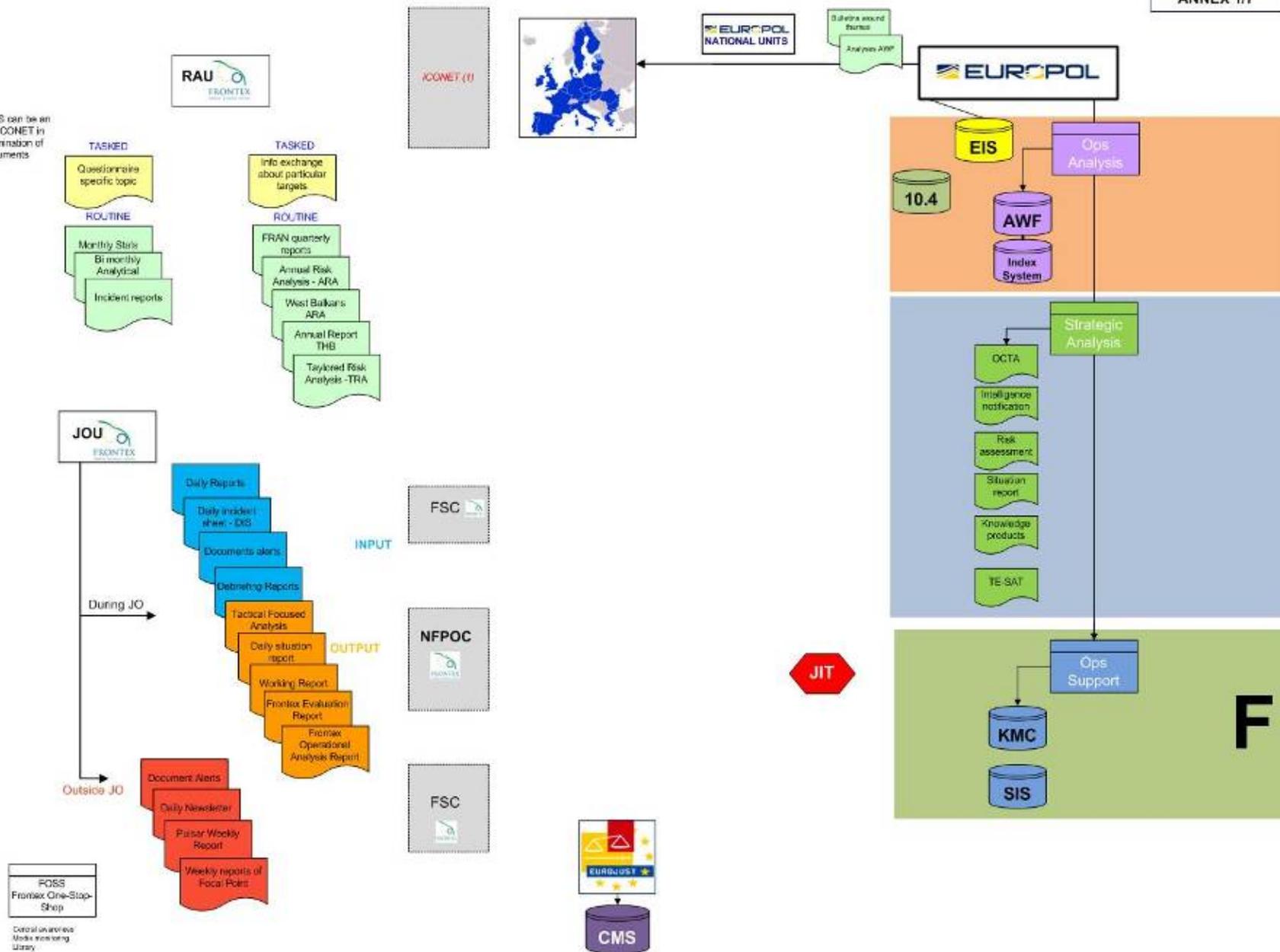
(1) CHASMUS can be an alternative to IOONET in case of dissemination of restricted documents



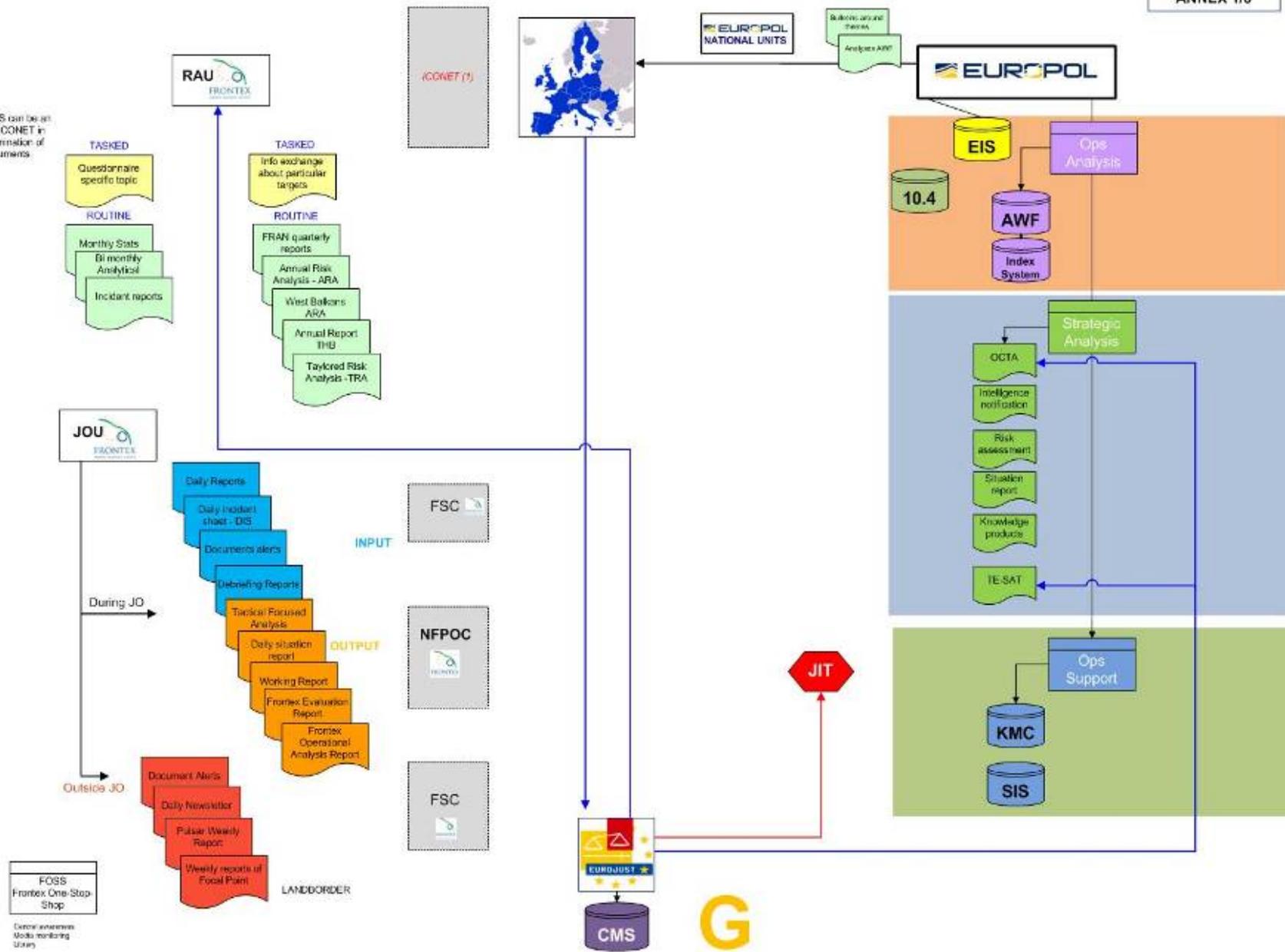
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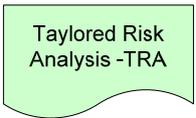


(1) CHIASMUS can be an alternative to ICONET in case of dissemination of restricted documents



Explanation of the strategic information Flow (annex 1/2)

1	Questionnaire specific topic	Answers to specific questions asked by FTX RAU to member states	From MS to RAU
2	Monthly Stats	Sharing of information through a network (by ICONET platform) on illegal border-crossing, illegal stay, refusals of entry, asylum applications, facilitation, false documents and returns of illegal stayers.	From MS to RAU
3	Bi monthly Analytical	Bi-monthly analytical information (situation in third countries, information on the situation at the border, information on illegal stay, information on institutional changes (bilateral cooperation and agreements, ....))	From MS to RAU
4	Incident reports	Reports uploaded to ICONET following incidents and when a MS identifies a new modus operandi, phenomenon or trend.	From MS to RAU
5	Info exchange about particular targets	Upon specific request	From RAU to MS. It can also be from MS to RAU
6	Annual Risk Analysis - ARA	<b>Strategic long-term risk analysis</b> , which takes the form of a forward-looking <b>Annual Risk Analysis</b> (or ARA), and its update, the <b>Semi-Annual Risk Analysis</b> (SARA). The ARA is the basis for setting the agency's operational and capacity-building priorities, whereas the SARA provides an update as planning proceeds and identifies gaps as events unfold. The ARA is used by Europol for OCTA and Risk Assessment (which are also used by RAU for the writing of the ARA).	disseminated to all MS in FRAN and the Management Board

7		See ARA. Specific to the Western Balkans region	From RAU to MS
8		A regular report (developed from a Tailored Risk Analysis) reflecting the annual situation in MS with regards to trafficking in human beings highlighting trends in modus operandi, use of travel documents, routes and vulnerable groups. To form the basis for FTX operational policy priorities.	From RAU to MS
9		<b>Strategic and timely risk analysis</b> in the form of <b>FRAN Quarterly</b> updating the intelligence picture and situational awareness and providing trend analysis, and <b>Tailored Risk Analyses</b> (TRAs) which examine specific problems (for example, irregular migration from East Africa). Both documents are used by Europol for OCTA and Risk Assessment (which are also used by RAU for the writing of the FRAN Quarterly report and TRAs)	From RAU to MS
10			From FTX to MS and to Europol

Explanation of the operational information flow during Joint operations (annex 1/3)

11		The local coordination centre (LCC) receives the incident report from the operational areas, compiles the information and produces the Daily report	From MS via FSC To JOU and RAU
12		DIS (Daily Incident Sheet): information determined in advance is collected by the hosting and participating Member States and sent directly to Frontex on day+1.	From MS via FSC To JOU and RAU

13		<p>Information related to new modi operandi, false or falsified documents and send by Member States and by Frontex via the existing network NFPOC – CFPOC</p>	<p>From (individual) MS via FSC to other MS, JOU and RAU</p>
14		<p>Frontex deploys debriefing experts in joint operation at sea and land external borders in order to collect intelligence through debriefing of migrants detected. Interviews are usually carried out in the centres where migrants are hosted after identification. The aim of the the interview is collect information about modus operandi, routes and the activities of facilitators. The debriefing reports do not contain personal data.</p>	<p>From MS via FSC to JOU From JOU to RAU</p>
15		<p>It is an assessment drafted prior to any Frontex Joint Operation in order to ascertain the need for launching an operational response in a given area at the external borders of the EU and assist the preparation of the operational plan, determining where, the duration and period, the type of assets and experts needed etc. Such assessments do not contain personal data</p>	<p>From RAU to MS via NFPOC</p>
16		<p>After processing the information of the DIS, Frontex sends a Daily Situation Report to all participating Member States and to the NFPOC. This report is based on the statistical overview and selected search results from open sources related to the particular operation.</p>	<p>From FSC to MS</p>
17		<p>Is issued by the Guest Officers deployed in a Frontex coordinated operational activity, at the end of their deployment.</p>	<p>From MS to JOU</p>

18		Report done after an operation. Can be send to Europol on request	From JOU to participating MS
19		These are analytical reports produced during Joint Operations, which provide an update of the situation in the operational area in order to adopt an adequate operational response in manoeuvring the assets and experts deployed in the operation.  Such reports do not contain personal data.	From JOU to RAU and FOSS

Explanation of the operational information flow outside Joint operations (annex 1/4)

20		It might happen that urgent information outside the normal context of Joint Operations, is sent from Frontex to Member States and vice versa through the FSC	From MS to FSC and vice versa
21		Via media monitoring	From FSC to MS via FOSS
22		PWR (Pulsar Weekly Report): information determined in advance is sent directly by the airports of the Member States to the Frontex. The information gathered is processed and analysed by Risk Analysis Unit and sent back to all Member States via a weekly assessment providing an analysis about trends, routes and modus operandi about refusals, asylum seekers, illegal stay and use of falsified documents. This weekly report is sent to the National Frontex Point of Contact and airports of each Member State.  It does not contain personal data.	From FTX to MS via FSC  From JOU to RAU

23		Report issued by an active Focal Point sent to Frontex JOU (Land Border Sector) and RAU via FSC	From MS via FSC to JOU and RAU
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Explanation of the operational information flow concerning Europol (Operational analysis) (annex 1/5)

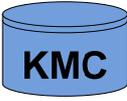
24		Temporary data storage (max 6 months) for data contributed to Europol. The purpose of the 10-4 environment is to determine whether the data contributed can be included in the EIS or in an AWF.	
25		It provides capabilities for storing, searching, visualising and linking information related to trans-national crimes. The system supports automatic detection of possible hits between different investigations and facilitates the sharing of sensitive information in a secure and reliable way.	Receives information from or via ENU.
26		The AWF acts as the central point allowing national investigations to benefit from information obtained in other jurisdictions.	Information coming from the MS and the other operational partners. Input from AWF to RAU both for strategic reports such as the ARA, SARA and THB Assessment, and for Tactical Focussed Assessments for operational purposes.
27		The index system provides a search function, which refers to the contents of the Europol Analysis System. It enables the MS and Europol to determine if a subject of interest exists in any of the AWF's	

Explanation of the operational information flow concerning Europol (Strategic analysis) (annex 1/6)

28		It develops a threat assessment of current and expected new trends in organised crime across EU	Is fed with information coming from RAU, the MS and Eurojust.
29		Intelligence Notifications serve the purpose of addressing recent changes, trends and developments in the criminal environment (thematic or regional). As with other types of strategic report, they may focus on specific OCGs, criminal markets or geographical areas. These notifications concentrate on describing the relevant changes, and providing a preliminary assessment of the possible effect on the relevant region and the EU. They should address smaller issues than the Threat Assessments.	
30		Identifies and examines vulnerable areas of society that are, or could be, criminally exploited; this type of report offers recommendations on potential counter measures.	Flow in both directions with RAU
31		Describes current crime situations in general or specific area (for example, drug situation in the EU; the amount of money laundered in the EU, ...	
32		These Europol products aim to share knowledge available at Europol about specific phenomena. As such Europol provides a range of products and services which combine best practices, expertise, contacts, legislation and regulation, techniques and other knowledge available in the	

		Member States with regard to Europol's mandate and related investigations.	
33		Information in the area of terrorism is collected, compiled and analysed with a view to demonstrating certain developments in that area.	Information coming mainly from the EU MS and SITCEN

Explanation of the operational information flow concerning Europol (Operational support) (annex 1/7)

34		Database which stores uncommon and rarely used forms of investigative expertise e.g. high tech crime, ...;	
35		Europol has been granted a limited access to the Schengen Information System where information, provided to Europol from the Non-EU States and international bodies with which Europol is co-operating , can be cross-checked. This service is also available for those member states that do not yet have access to the SIS.	

36		Is an investigation team set up on the basis of an agreement between two or more Member States, for a specific purpose.	<p>Eurojust and Europol can contribute to the JIT.</p> <p>Eurojust hosts the JIT secretariat and provides MS support in the setting up of a JIT, giving financial support and can give operational support, when so needed</p>
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Explanation about the information flow concerning Eurojust (annex 1/8)

37		Case Management System	Can be used by Eurojust to contribute to products of Europol
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