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from: Presidency
to: JHA Counsellors

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Subject: Proposal for a Regulation of the European Parliament and of the Council
establishing the European Border Surveillance System (EUROSUR)

In the context of ongoing negotiations with the European Parliament on the above-mentioned proposal, delegations will find in the Annex the four-column table with Presidency drafting suggestions and comments on the different issues discussed so far with the European Parliament.

The Presidency has met the EP rapporteur and the shadows on 30 January, 26 February and 27 March 2013. The next trilogue with the EP is scheduled to take place on 22 April 2013.

The Presidency has proceeded in its contacts with the European Parliament on the basis of the outcome of discussions at the last JHA Counsellors meeting on 20 March 2013 and on written comments received afterwards from a number of delegations.

Compared to the previous text set out in the fourth column in doc.7142/13, the Presidency would like to highlight the following issues and asked delegations to address the following issues at the JHA Counsellors meeting on 16 April 2013:

1. Objectives of EUROSUR (Article 1 and throughout the text)

At the last trilogue on 27 March 2013, the EP side agreed on one of the compromise texts for Article 1 and recital 1 ("*...contributing to ensuring the protection and saving lives ..*"). As foreseen, the EP insisted in having this wording also in Article 2 paragraph 1 on the scope and they could not accept the wording proposed by the Presidency "*..for the purposes of this Regulation.*". The Presidency believes that adding the same wording in Article 2 would not change the substance of this provision and would suggest to accept it subject to the acceptance by the EP that the following amendments will be dropped: EP AMS 7, 20, 29, 56, 57, 58, 60, 61, 62, 69, 71, 73, 74, 78, 80, 88, 89, 90 and 91. For other EP AMS 4, 5, 21, 28, 37, 48, 54, 57, 58, 62, 69, 71, 74, 98 and 106, compromise texts have been found and most of them were acceptable to delegations at the JHA Counsellors meeting on 20 March 2013.

2. Fundamental rights (Article 2 paragraph 3 and throughout the text)

At the last JHA Counsellors meeting, a majority of delegations supported the compromise package put forward by the Presidency. A small number of issues remain outstanding regarding fundamental rights. At the last trilogue, it was agreed to include the reference to the Consultative Forum and Fundamental Rights Officer in Frontex (EP AM 44 - Article 6 paragraph 2a) in a new recital 6aa. The EP also suggested a new wording for Article 20 paragraph 1 on which the Presidency reserved its position. A compromise was found at the technical meeting of 9 April and the Presidency invites delegations to consider.

3. Scope of EUROSUR (Article 2 paragraph 2)

The Presidency has informed the EP that several Member States had asked to keep the Council text with the words "*during and*". However, it is a key issue for the EP which considered that if the Council text were to be accepted, the scope of EUROSUR would be too excessively narrowed. Therefore, the Presidency would like to invite the concerned delegations to agree with the compromise text and read it in connection with the definition of "interception" provided in Article 3. In addition, as indicated by the Commission at the JHA Counsellors meeting on 20 March 2013, some of the issues pointed out by those delegations can be solved in the explanations that the Handbook will provide.

4. Sharing of information in the sub-layer on own assets and operational areas in the NSP (Article 9 paragraphs 5, 9 and 9a)

The EP did not amend the Commission proposal regarding Article 9 paragraphs 5 and 9. The EP side is of the view that the Council text goes too far and, therefore, at the last trilogue suggested a compromise text whereby Member States would be obliged to share information on own assets and operational areas with the Agency and other Member States when the patrols are engaged in a multi-task mission which includes military tasks and its primary purpose is to prevent illegal immigration or cross-border crime. The EP compromise text provides for a similar solution in paragraph 9a. The Presidency considers this compromise also goes beyond the Commission proposal and asks delegations to agree on the new compromise set out in the four-column table for the purpose of proceeding in negotiations with the EP on 22 April 2013.

5. Reaction capability (Articles 13, 14 and 15)

The Presidency is aware of the high sensitivity of these provisions. Nevertheless, in the negotiations the EP has expressed that some parts of the Council texts were unacceptable. The Presidency has reflected on possible ways forward and would like to ask delegations to agree on the approach, comments and suggestions regarding Articles 13, 14 and 15 as set out in the fourth column of the table in the Annex for the purpose of making progress at the trilogue on 22 April 2013.

6. Cooperation with third countries (Article 18)

There are three main outstanding issues regarding this Article. In relation to paragraph 1, several delegations can not accept a compulsory consultation of the Commission before concluding such agreements and the EP insists that Member States should also notify the bilateral or multilateral agreements concluded with third countries to the EP. Another outstanding issue concerns paragraph 1b (EP AM 100) on the prohibition of exchange of personal data with third countries under those agreements. The Presidency has repeated to the EP that it was important for Member States not to exclude such a possibility and would like to hear from delegations their views on possible trade offs with the EP regarding these outstanding issues.

7. Cooperation with UK and IE (Article 18 bis)

In line with the positions expressed by a majority of Member States at the JHA Counsellors' meeting on 20 March 2013, the Presidency tried to persuade the EP to accept the compromise proposal in the fourth column. However, the EP has insisted that there can be no reference to third countries here. The Commission supports the EP position. For that reason, the Presidency proposes removing the wording in square brackets in paragraphs 1 and 4b which refers to third countries.

8. Processing of personal data (Recital 7, Article 10(5ter), Article 11(4), second sentence, Article 12a and Article 20a(2))

Delegations will find a new compromise on recital 7 following some concerns at the JHA Counsellors meeting on 20 March 2013. The Presidency has proposed to keep the term "ship identification numbers" in Article 12a as suggested by Commission and which is acceptable for the EP. In addition, the Presidency has agreed with the EP to delete the words in Article 10 paragraph 5ter and 11 paragraph 4 "*shall not be used for the visualisation of any personal data with the exception of the registration numbers of vessels.*". The Presidency invites delegations to consider agreeing with the "six weeks" period in Article 12a paragraph 2 instead of "three months" which is considered too long by the EP.

9. Reference to Schengen evaluation (Article 10 paragraph 6, point ba, (AM 70))

Delegations will find in the four column of the table set out in the Annex, a new compromise suggested by the EP. Even if the EP has decided not to include a direct reference to the Schengen evaluation mechanism, the Presidency considers the text superfluous and has also questioned how such a provision should work.

For the purpose of making further progress at the next trilogue, the Presidency invites delegations to agree with the Presidency's suggestions as set out in the fourth column of the four-column table set out in the Annex.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing the European Border Surveillance System (EUROSUR)

COMMISSION PROPOSAL	RESULT OF LIBE ORIENTATION VOTE	DRAFT COUNCIL TEXT	COMMENTS AND COMPROMISE TEXT
<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(d) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national Parliaments, Acting in accordance with the ordinary legislative procedure, Whereas:</p>			
	AM 4		
<p>(1) The establishment of a European Border Surveillance System (hereinafter referred to as 'EUROSUR') is necessary in order to strengthen the information exchange and operational cooperation between national authorities of Member States as well as with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 of 26 October 2004¹ (Frontex), hereinafter</p>	<p>(1) The establishment of a European Border Surveillance System (hereinafter referred to as 'EUROSUR') is necessary in order to strengthen the information exchange and operational cooperation between national authorities of Member States as well as with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 of 26 October 2004 (Frontex), hereinafter</p>	<p>(1) The establishment of a European Border Surveillance System (hereinafter referred to as 'EUROSUR') is necessary in order to strengthen the information exchange and operational cooperation between national authorities of Member States as well as with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 (...) ¹ (...), hereinafter referred to as 'the</p>	<p>Agreement to use the same wording as in Article 1, however EP lawyer-linguists consider "should" in the second sentence must remain.</p> <p>(1) The establishment of a European Border Surveillance System (hereinafter referred to as 'EUROSUR') is necessary in order to strengthen the information exchange and operational cooperation between national authorities of Member States as well as with the European</p>

¹ OJ L 349, 25.11.2004, p. 1.

<p>referred to as ‘the Agency’. EUROSUR should provide these authorities and the Agency with the infrastructure and tools needed to improve their situational awareness and reaction capability when detecting and preventing irregular migration and cross-border crime as well as protecting and saving lives of migrants at the external borders of the Member States of the Union.</p>	<p>referred to as ‘the Agency’. EUROSUR should provide these authorities and the Agency with the infrastructure and tools needed to improve their situational awareness and reaction capability <i>towards situations which might turn out to be</i> irregular migration and cross-border crime <i>with an aim to protect and save</i> lives of <i>people in distress</i> at the external borders of the Member States of the Union.</p>	<p>Agency’. EUROSUR (...) provides these authorities and the Agency with the infrastructure and tools needed to improve their situational awareness and reaction capability at the external borders of the Member States of the European Union for the purpose of (...) detecting, (...) preventing and combating (...) illegal migration and cross-border crime (...) and consequently contributing to better protecting and saving <i>the</i> lives of migrants (...).</p>	<p>Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 (...) ² (...), hereinafter referred to as ‘the Agency’. EUROSUR (...) provides these authorities and the Agency with the infrastructure and tools needed to improve their situational awareness and reaction capability at the external borders of the Member States of the European Union for the purpose of (...) detecting, (...) preventing and combating (...) illegal migration and cross-border crime (...) and (...) contributing to <u>ensuring the protection</u> and saving the lives of migrants and <u>third-country nationals and stateless persons in need of international protection</u> (...).</p>
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¹ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

² Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

	AM 5		
	<p><i>(1a) The practice of travelling in small and unseaworthy vessels has dramatically increased the number of migrants and refugees drowning at the southern maritime external borders. EUROSUR should considerably improve the operational and technical ability of the Agency and Member States to detect these small vessels and to improve the reaction capability of the Agency and the Member States for saving the lives of migrants and refugees, leading to a considerable reduction of the loss of migrants and refugees at sea.</i></p>		<p>Compromise proposed by the Presidency:</p> <p>(1a) The practice of travelling in small and unseaworthy vessels has dramatically increased the number of migrants and refugees drowning at the southern maritime external borders. EUROSUR should considerably improve the operational and technical ability of the Agency and Member States to detect these small vessels and to improve the reaction capability of (...) the Member States (...) <u>thereby contributing to reduce the loss of lives of migrants and third-country nationals and stateless persons in need of international protection at sea.</u></p>
	AM 6		
	<p><i>(1b) Migration and the crossing of external borders by third-country nationals should not per se be considered to be a threat to public policy or internal security. A border surveillance system should not be built on the assumption that irregular migration is a pattern among third-country nationals.</i></p>		<p>EP AM 6 not acceptable for the Council.</p>

	AM 7		
	<i>(1c) A mechanism should be established for a quick and effective determining of the Member State responsible for rendering assistance and rescuing persons in distress who are aboard of vessels that have been detected.</i>		EP could accept to drop its AM in the framework of an overall agreement on the saving of lives including a reference in Articles 1 and 2
(2) Member States should establish national coordination centres for border surveillance to improve the cooperation and information exchange between them and with the Agency. It is essential for the proper functioning of EUROSUR that all national authorities with a responsibility for external border surveillance under national law are cooperating via national coordination centres.		(2) Member States (...) establish national coordination centres (...) to improve the cooperation and information exchange for border surveillance between them and with the Agency. It is essential for the proper functioning of EUROSUR that all national authorities with a responsibility for external border surveillance under national law (...) cooperate via national coordination centres.	EP lawyers-linguists consider the "should" must remain. Agreed at technical meeting 9 April, subject to confirmation of acceptance of linguistic change
(3) This Regulation should not hinder Member States from making their national coordination centres also responsible for coordinating the information exchange and cooperation with regard to the surveillance of air borders and for checks at border crossing points.			

	AM 8		
	<i>(3a) This Regulation requires that the Agency improves the cooperation and information exchange with other Union bodies and agencies, such as the European Maritime Safety Agency and the EU Satellite Centre, in order to make best use of existing information, capabilities and systems which are already available at European level.</i>		Agreed at technical meeting 9 April: <i>(3a) This Regulation requires that the Agency improves the cooperation and information exchange with other Union bodies, offices and agencies, such as the European Maritime Safety Agency and the EU Satellite Centre, in order to make best use of existing information, capabilities and systems which are already available at European level.</i>
(4) This Regulation forms part of the European model of integrated border management of the external borders and of the Internal Security Strategy of the European Union. EUROSUR also contributes to the development of the Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), providing a wider framework for maritime situational awareness through information exchange amongst public authorities across sectors in the Union.			

	AM 9		
	<p><i>(4a) In order to ensure that the information contained in EUROSUR is as complete and updated as possible, notably as regards the situation in third countries, the Agency should cooperate with the European External Action Service and European Union delegations and offices should provide all information relevant for EUROSUR to the Agency.</i></p>		<p>Compromise suggested by technical meeting on 9 April</p> <p><i>(4a) In order to ensure that the information contained in EUROSUR is as complete and updated as possible, notably as regards the situation in third countries, the Agency should cooperate with the European External Action Service. For those purposes, European Union delegations and offices should provide all information which may be relevant for EUROSUR.</i></p>
<p>(5) According to point (i) of Article 2 of Regulation 2007/2004, the Agency should provide the necessary assistance to the development and operation of EUROSUR, and, as appropriate, to the development of CISE, including interoperability of systems.</p>		<p>(5) According to point (i) of Article 2 (1) of Regulation (EC) No 2007/2004, the Agency (...) is to (...) provide the necessary assistance to the development and operation of EUROSUR, and, as appropriate, to the development of CISE, including interoperability of systems.</p>	<p>EP lawyer-linguists consider "should" must remain and also that the Article cannot be referred to here as it is being amended later in the text.</p> <p>Technical meeting on 9 April suggests the following text:</p> <p>The Agency should provide the necessary assistance to the development and operation of EUROSUR, and, as appropriate, to the development of CISE, including interoperability of systems.</p>

	AM 10		
	<p><i>(5a) The Agency should be provided with the appropriate financial and human resources in order to adequately fulfil the additional tasks assigned to it under this Regulation. For this purpose, the procedure for the establishment, implementation and control of its budget as set out in Articles 29 and 30 of Regulation (EC) No 2007/2004 should take due account of these tasks. The budgetary authority should ensure that the best standards of efficiency are met.</i></p>		<p>Compromise proposed by the Presidency accepted at technical meeting on 9 April:</p> <p>(5a) The Agency should be provided with the appropriate financial and human resources in order to adequately fulfil the additional tasks assigned to it under this Regulation. <u>(...)</u></p>

	AM 11		
<p>(6) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably human dignity, prohibition of torture and inhuman or degrading treatment or punishment, right to liberty and security, right to the protection of personal data, non-refoulement, non-discrimination and rights of the child. This Regulation should be applied by Member States in accordance with these rights and principles.</p>	<p>(6) This Regulation respects the fundamental rights and observes the principles recognised by Articles 2 and 6 of the Treaty on European Union, the Charter of Fundamental Rights of the European Union, notably the right to life, human dignity, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of trafficking in human beings, right to liberty and security, right to the protection of personal data, right of access to documents, right of asylum and protection in cases of removal and expulsion, non-refoulement, non-discrimination and rights of the child. This Regulation should be applied by Member States in accordance with these rights and principles.</p>	<p>(6) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably human dignity, the right to life, (...), the prohibition of torture and inhuman or degrading treatment or punishment, the right to liberty and security, (...) protection of personal data, non-refoulement, non-discrimination and the rights of the child. This Regulation should be applied by Member States and the Agency in accordance with these rights and principles.</p>	<p>The Council proposes the following compromise text on the basis of EP AM 11, acceptable for EP in the context of an overall <u>package on fundamental rights</u> (with the right of access to documents):</p> <p>(6) This Regulation respects the fundamental rights and observes the principles recognised by Articles 2 and 6 of the Treaty on European Union, the Charter of Fundamental Rights of the European Union, notably the right to life, human dignity, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of trafficking in human beings, the right to liberty and security, right to the protection of personal data, right of access to documents, right of asylum, and protection in cases of removal and expulsion, non-refoulement, non-discrimination and the rights of the child. This Regulation should be applied by Member States and the Agency in accordance with these rights and principles.</p>

			<p>Agreed at trilogue on 27 March and technical meeting on 9 April:</p> <p><i>(6aa) The Consultative Forum and the Fundamental Rights Officer should have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency within the framework of EUROSUR, in accordance with Article 26a of Regulation (EC) No 2007/2004.</i></p>
	AM 12		
	<p><i>(6a) This Regulation recognises the nature of the mixed flows of migrants and refugees approaching and crossing the Union external borders and takes into account that refugees in need of international protection are often taking the same routes and vessels as migrants; it fully respects the obligations of the Union and the Member States on the protection of refugees under European and international law.</i></p>		<p>To be discussed at technical meeting</p> <p>PRES informed EP that compromise text previously proposed by PRES was not acceptable to some Council members. EP to discuss possibility of dropping this AM at shadows' meeting</p>

	AM 13		
<p>(7) Any exchange of personal data using the communication network for EUROSUR should be conducted on the basis of existing national and Union legal provisions and should respect their specific data protection requirements. The Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data² and, in the framework of police and judicial cooperation, the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters³ are applicable in cases in which</p>	<p>(7) Any exchange of personal data using the communication network for EUROSUR should remain an exception. It should be conducted on the basis of existing national and Union legal provisions and should respect their specific data protection requirements. The Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [...] are applicable in cases in which more specific instruments, such as Regulation (EC) No 2007/2004, do not provide a full data protection regime.</p>	<p>(7) Any exchange of personal data using the communication network for EUROSUR should be conducted on the basis of existing national and Union legal provisions and should respect their specific data protection requirements. The Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁴, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁵ and, (...)the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters⁶ are applicable in cases in which more specific instruments, such as Regulation</p>	<p>Agreed at technical meeting on 9 April;</p> <p>(7) Any exchange of personal data <u>in the European Situational Picture and the Common Pre-Frontier Intelligence Picture</u> should remain an exception. It should be conducted on the basis of existing national and Union legal provisions and should respect their specific data protection requirements. The Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁷ and, (...)the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the</p>

¹ OJ L 281, 23.11.1995, p. 31.

² OJ L 8, 12.1.2001, p. 1.

³ OJ L 350, 30.12.2008, p. 60.

⁴ OJ L 281, 23.11.1995, p. 31.

⁵ OJ L 8, 12.1.2001, p. 1.

⁶ OJ L 350, 30.12.2008, p. 60.

⁷ OJ L 8, 12.1.2001, p. 1.

more specific instruments, such as Regulation (EC) No 2007/2004, do not provide a full data protection regime.		(EC) No 2007/2004, do not provide a full data protection regime.	framework of police and judicial cooperation in criminal matters ¹ are applicable in cases in which more specific instruments, such as Regulation (EC) No 2007/2004, do not provide a full data protection regime.
		(7a) This Regulation is without prejudice to existing and future legislation on access to documents adopted in accordance with Article 15(3) TFEU.	Council accepts to drop new recital 7a.
(8) Since the establishment of EUROSUR cannot be sufficiently achieved by Member States alone and can therefore, by virtue of the scale and impact of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality this Regulation does not go beyond what is necessary in order to achieve its objective.		(8) Since the objective of this Regulation, namely the establishment of EUROSUR cannot be sufficiently achieved by Member States alone and can therefore, by virtue of the scale and impact of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article , this Regulation does not go beyond what is necessary in order to achieve (...) this objective.	Council text agreed at technical meeting on 9 April.

¹ OJ L 350, 30.12.2008, p. 60.

	AM 14		
(9) In order to implement a gradual geographical roll-out of EUROSUR, the obligation to designate and operate national coordination centres should apply in three successive stages, first to the Member States located at the southern sea external borders and at the eastern land external borders, at a second stage to the remaining Member States with land or sea external borders and at a third stage to the remaining Member States.	<i>deleted</i>	(9) In order to implement a gradual geographical roll-out of EUROSUR, the obligation to designate and operate national coordination centres should apply in two (...) successive stages, first to the Member States located at the southern (...) and (...) eastern (...) external borders of the Member States and , at a second stage to the remaining Member States (...).	Agreement on Council text at trilogue on 30.1.2013 together with AMS 109 and 110.
	AM 15		
	<i>(9a) This Regulation includes provisions on the cooperation with neighbouring third countries, because a well-structured and permanent cooperation and information exchange with these countries, in particular in the Mediterranean region, is a key factor for achieving the objectives of EUROSUR. It is essential that any cooperation and information exchange between Member States and neighbouring third countries be carried out in full compliance with fundamental rights, such as the obligation to provide a safe haven for persons in need of international protection.</i>		Compromise proposed by the Presidency, acceptable for the EP in the framework of an overall agreement on fundamental rights: (9a) This Regulation includes provisions on the cooperation with neighbouring third countries, because a well-structured and permanent cooperation and information exchange with these countries, in particular in the Mediterranean region, is a key factor for achieving the objectives of EUROSUR. It is essential that any cooperation and information exchange between Member States and neighbouring third countries be carried out in full compliance with fundamental rights and notably the principle of non refoulement (...).

	AM 16		
	<i>(9b) There is a need to better coordinate spending of the Union and Member States' funds in the area of home affairs in order to optimise the use of their own budgets. This should contribute to a better complementarity, efficiency and visibility of their spending. In particular, EUROSUR should make the best possible use of existing capabilities in terms of human resources as well as technical equipments, both at EU and national level.</i>		Technical meeting agreed on new compromise text on 9 April: (9b) (...) The Agency and Member States, when implementing this Regulation, should make the best possible use of existing capabilities in terms of human resources as well as technical equipments, both at Union and national level.
	AM 17		
	<i>(9c) Mechanisms involving the Union budget in the implementation of EUROSUR should be transparent, responsible and subject to democratic scrutiny.</i>		EP AM 17 unacceptable for the Council. Dropped by EP at technical meeting on 9 April.
	AM 18		
	<i>(9d) There is a need to ensure sound financial management of the system and its implementation in the most effective manner possible, while preserving legal certainty and the accessibility of the system to all participants.</i>		EP AM 18 unacceptable for the Council. Dropped by EP at technical meeting on 9 April.

	AM 19		
	<i>(9e) The Commission should regularly assess the results of the implementation of EUROSUR with the aid of clear, simple and measurable indicators. These indicators should provide the basis for determining the extent to which the objectives of the system have been achieved.</i>		EP AM 19 unacceptable for the Council Compromise proposed at technical meeting on 9 April: <i>(9c) The Commission should regularly assess the results of the implementation of this Regulation to determine the extent to which the objectives of Eurosur have been achieved.</i>
(10) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is therefore not bound by it or subject to application thereof. Given that this Regulation builds upon the Schengen <i>acquis</i> , under Title V of Part Three of the Treaty on the Functioning of the European Union, Denmark shall, in accordance with Article 4 of that Protocol, decide within six months after adoption of this Regulation whether it will implement it in its national law.		(10) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, (...) annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is (...) not bound by it or subject to its application (...). Given that this Regulation builds upon the Schengen <i>acquis</i> , (...) Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after (...) the Council has decided on this Regulation whether it will implement it in its national law.	The Presidency proposes to keep Council text. Technical meeting on 9 April agreed on Council text.

<p>(11) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i>, in which the United Kingdom is not participating, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>¹. The United Kingdom is therefore not taking part in adoption of this Regulation and is not bound by it or subject to application thereof.</p>		<p>(11) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> (...) in which the United Kingdom (...) does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i>² (...), the United Kingdom is therefore not taking part in its adoption (...) and is not bound by it or subject to its application (...).</p>	<p>The Presidency proposes to keep Council text.</p> <p>Technical meeting on 9 April agreed on Council text.</p>
<p>(12) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i>, in which Ireland is not participating, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>⁴. Ireland is therefore not taking part in adoption of this Regulation and is not bound by it or subject to application thereof.</p>		<p>(12) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> (...) in which Ireland (...) does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i>⁵, (...) Ireland is therefore not taking part in its adoption (...) and is not bound by it or subject to its application (...).</p>	<p>The Presidency proposes to keep Council text.</p> <p>Technical meeting on 9 April agreed on Council text.</p>

¹ OJ L 131, 1.6.2000, p. 43.

² OJ L 131, 1.6.2000, p. 43.

³ OJ L 131, 1.6.2000, p. 43.

⁴ OJ L 64, 7.3.2002, p. 20.

⁵ OJ L 64, 7.3.2002, p. 20.

<p>(13) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i>, as provided for by the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen <i>acquis</i>¹.</p>		<p>(13) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>, (...) within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's' association (...) with the implementation, application and development of the Schengen <i>acquis</i>² which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement. As regards Norway, Article 5(1) should apply as from 1 October 2013.</p>	<p>Technical meeting on 9 April agreed on Council text.</p>
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¹ OJ L 176, 10.7.1999, p. 36.

² OJ L 176, 10.7.1999, p. 36.

<p>(14) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i>, as provided for by the Agreement between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen <i>acquis</i>¹.</p>		<p>(14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>(...) within the meaning of by the Agreement between the European Union, the European Community and the Swiss Confederation (...) on the Swiss Confederation's association (...) with the implementation, application and development of the Schengen <i>acquis</i>² which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC OJ L 53, 27.2.2008, p.1.</p>	<p>Technical meeting on 9 April agreed on the following text:</p> <p>(14) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>(...) within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation (...) on the Swiss Confederation's association (...) with the implementation, application and development of the Schengen <i>acquis</i>³ which fall within the area referred to in point A of Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC⁴</p>
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¹ OJ L 53, 27.2.2008, p. 52.

² OJ L 53, 27.2.2008, p. 52.

³ OJ L 53, 27.2.2008, p. 52.

⁴ **OJ L 53, 27.2.2008, p.1.**

<p>(15) As regards Liechtenstein, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i>, as provided for by the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>¹.</p>		<p>(15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>(...) within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>² which fall within the area referred to in point A of Article 1 of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU³.</p>	<p>Technical meeting on 9 April agreed on Council text, subject to agreement on EP lawyer/linguist change to remove the word 'Council' below.</p> <p>(15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i>(...) within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>⁴ which fall within the area referred to in point A of Article 1 of (...) Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU⁵.</p>
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¹ OJ L 160, 18.6.2011, p. 19.

² OJ L 160, 18.6.2011, p. 21.

³ ***OJ L 160, 18.6.2011, p. 19.***

⁴ OJ L 160, 18.6.2011, p. 21.

⁵ ***OJ L 160, 18.6.2011, p. 19.***

	AM 20		
<p>(16) Implementation of this Regulation does not prejudice the division of competence between the Union and the Member States, and does not affect obligations of Member States under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations Convention against Transnational Organised Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the Status of Refugees, the Convention for the Protection of Human Rights and Fundamental Freedoms and other relevant international instruments.</p>	<p>(16) Implementation of this Regulation [...] does not affect <i>the</i> obligations of Member States under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations Convention against Transnational Organised Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the Status of Refugees, the Convention for the Protection of Human Rights and Fundamental Freedoms and other relevant international instruments.</p>	<p>(16) The implementation of this Regulation (...) is without prejudice to the division of competence between the Union and the Member States, and does not affect obligations of Member States under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue, the United Nations Convention against Transnational Organised Crime and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention relating to the Status of Refugees, the Convention for the Protection of Human Rights and Fundamental Freedoms and other relevant international instruments.</p>	<p>EP AM 20 not acceptable for the Council since it is linked to the search and rescue issue and the lack of legal basis for establishing new obligations for Member States.</p>

<p>(17) Implementation of this Regulation does not affect the rules for the surveillance of sea external borders in the context of operational cooperation coordinated by the Agency, as laid down in Council Decision 2010/252/EU of 26 April 2010¹.</p>		<p>(17) The implementation of this Regulation does not affect the rules for the surveillance of sea external borders in the context of operational cooperation coordinated by the Agency, as laid down in Council Decision 2010/252/EU of 26 April 2010².</p>	<p>Compromise proposal suggested by PRES on 9 April to be taken back to shadows: <i>"The implementation of this Regulation does not affect the rules for border surveillance as established in the Schengen Borders Code"</i></p> <p>If shadows do not accept it, EP suggest the following:</p> <p>“The implementation of this Regulation does not affect the rules for the surveillance of sea external borders in the context of operational cooperation coordinated by the Agency,”</p>
		<p>(18) Geographic information such as maps, geographic coordinates and geo-data should be in line with Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).</p>	<p>PRES agreed to recommend dropping this recital.</p>

¹ OJ L 111, 4.5.2010, page 20.

² OJ L 111, 4.5.2010, p. 20.

HAVE ADOPTED THIS REGULATION:			
TITLE I GENERAL PROVISIONS			
<i>Article 1</i> <i>Subject matter</i>			
	AM 21		
This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and reaction capability at the external borders of the Member States and of the European Union, hereinafter referred to as the European Border Surveillance System (EUROSUR).	This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and reaction capability <i>to protect and save the lives of migrants and refugees and to prevent irregular migration and cross-border crime</i> at the external borders of the Member States and of the European Union, hereinafter referred to as the European Border Surveillance System (EUROSUR).	This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and to increase the reaction capability at the external borders of the Member States (...) of the European Union, hereinafter referred to as the (...) "EUROSUR", for the purpose of detecting, preventing and combating illegal migration and cross-border crime and consequently contributing to better protecting and saving the lives of migrants.	Text agreed at trilogue on 27.3.2013 in the framework of a overall agreement on the saving of lives: This Regulation establishes a common framework for the exchange of information and cooperation between Member States and the Agency in order to improve the situational awareness and to increase the reaction capability at the external borders of the Member States (...) of the European Union, hereinafter referred to as the (...) "EUROSUR", for the purpose of detecting, preventing and combating illegal immigration and cross-border crime and contributing to (...) ensuring the protection and saving the lives of migrants and third-country nationals and stateless persons in need of international protection

<p style="text-align: center;"><i>Article 2</i></p> <p style="text-align: center;"><i>Scope</i></p>			
<p>1. This Regulation shall apply to the surveillance of land and sea external borders of the Member States, including measures for monitoring, detection, identification, tracking, prevention and interception of illegal border crossings.</p>	<p style="text-align: center;">AM 22</p> <p>1. This Regulation shall apply to the surveillance of land and sea external borders of the Member States, including measures for <i>protecting lives of migrants and refugees, for</i> monitoring, detection, identification, tracking, prevention and interception of illegal border crossings <i>and cross-border crime.</i></p>	<p>1. This Regulation shall apply to the surveillance of land and sea external borders of the Member States, including (...) monitoring, detection, identification, tracking, prevention and interception of illegal border crossings in the context of EUROSUR.</p>	<p>Proposal by the Presidency to accept the following text subject to EP acceptance to drop all the remaining EP AMs related to the saving of lives and search and rescue obligations throughout the text (see document attached with all the AMs that the Presidency considers need to be dropped).</p> <p>1. This Regulation shall apply to the surveillance of land and sea external borders of the Member States, including (...) monitoring, detection, identification, tracking, prevention and interception of illegal border crossings for the purpose of detecting, preventing and combating illegal immigration and cross-border crime and contributing to (...) ensuring the protection and saving the lives of migrants and third-country nationals and stateless persons in need of international protection</p>
	<p style="text-align: center;">AM 23</p> <p><i>1a. This Regulation may also apply to surveillance of air borders as well as to checks at border crossing points if Member States voluntarily provide such information to EUROSUR.</i></p>		<p>Agreement on EP text at the trilogue on 30.1.2013.</p>

	AM 24		
	<i>1b. This Regulation shall be without prejudice to the Schengen Borders Code.</i>		<p>At trilogue on 27.3.2013, the EP proposed the following compromise: "This Regulation shall be implemented in accordance with the Schengen Borders Code".</p> <p>This text is unacceptable for the Council.</p> <p>The Presidency suggests to replace current recital 17 with the following wording:</p> <p>"The implementation of this Regulation does not affect the rules for border surveillance as established in the Schengen Borders Code"</p>
	AM 25		
	<i>1c. This Regulation shall be without prejudice to Union legislation as regards fundamental rights, access to international protection, return and trafficking of human beings, including identification of victims thereof.</i>		EP could accept to drop its AM in the framework of an overall agreement on fundamental rights.
	AM 26		
2. This Regulation shall not apply to operational, procedural and legal measures taken after interception.	2. This Regulation shall not apply to [...] procedural and legal measures taken after interception.	2. This Regulation shall not apply to (...) procedural and legal measures taken during and after interception.	<p>Discussed at trilogue on 27.3.2013 but no agreement reached on the new compromise text:</p> <p>2. This Regulation shall not apply to [...] legal and administrative measures taken after interception.</p>

	AM 27		
3. Member States and the Agency shall comply with fundamental rights, including data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.	3. Member States and the Agency shall comply with fundamental rights, including <i>the principles of non-refoulement and human dignity and</i> data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, <i>in particular unaccompanied minors</i> , victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.		EP can accept the Council compromise in the framework of an overall agreement on fundamental rights: 3. Member States and the Agency shall comply with fundamental rights, including <i>the principles of non-refoulement and human dignity and</i> data protection requirements, when applying this Regulation. They shall give priority to the special needs of children, (...) <i>unaccompanied minors</i> , victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection, persons in distress at sea and other persons in a particularly vulnerable situation.
<i>Article 3</i> <i>Definitions</i>			
For the purposes of this Regulation, the following definitions shall apply:			
	<i>cf AM 31, point (fa)</i>	(aa) "Agency" means the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation 2007/2004;	Agreement to keep this definition as point (aa).

		AM 28	
(a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for control measures on the basis of combining new information with existing knowledge;	(a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for control measures on the basis of [...] new information, <i>analysis and</i> existing knowledge, <i>and to be better able to prevent loss of life at sea</i> ;	(a) 'situational awareness' means the ability to monitor, detect, identify, track and understand cross-border activities in order to find reasoned grounds for reaction (...) measures on the basis of combining new information with existing knowledge;	Text agreed by EP and Council subject to an overall agreement on the protection and saving of lives of migrants amendments: (a) 'situational awareness' means the ability to monitor, detect, identify, track and understand [illegal] cross-border activities in order to find reasoned grounds for reaction (...) measures on the basis of combining new information with existing knowledge, and to be better able to reduce loss of lives of migrants and refugees at, along or in the proximity of the external borders ;
		AM 29	
(b) 'reaction capability' means the ability to perform actions aimed at countering illegal cross-border movements, including the means and timelines to react adequately to unusual circumstances;	(b) 'reaction capability' means the ability to perform actions aimed at countering illegal cross-border movements <i>and protecting lives of migrants and refugees, including at sea</i> , including the means and timelines to react adequately to unusual circumstances <i>and emergency situations</i> ;	(b) 'reaction capability' means the ability to perform actions aimed at countering illegal cross-border movements at, along or in the proximity of the external borders of the Member States (...) , including the means and timelines to react adequately (...);	EP could drop AM 29 subject to agreement on the inclusion of the wording of Article 1 also in Article 2 (scope).

<p>(c) 'situational picture' means a graphical interface to present real-time data, information and intelligence received from different authorities, sensors, platforms and other sources, which is shared across communication and information channels with other authorities in order to achieve situational awareness and support the reaction capability along the external borders and the pre-frontier area;</p>		<p>(c) 'situational picture' means a graphical interface to present near real-time data and information (...) received from different authorities, sensors, platforms and other sources, which is shared across communication and information channels with other authorities in order to achieve situational awareness and support the reaction capability along the external borders of the Member States and the pre-frontier area;</p>	<p>Agreement on Council text.</p>
AM 30			
<p>(d) 'cross-border crime' means any serious or organised crime committed at the external borders of Member States, such as trafficking in human beings, smuggling of drugs and other illicit activities;</p>	<p>(d) 'cross-border crime' means any serious or organised crime committed at the external borders of Member States <i>or at their proximity</i>, such as trafficking in human beings, smuggling of drugs and other illicit activities <i>that have a cross-border dimension</i>;</p>	<p>(d) 'cross-border crime' means any serious (...) crime with a cross border dimension committed at, (...) along or in the proximity of the external borders of the Member States(...);</p>	<p>Agreement on Council text.</p>
<p>(e) 'external border section' means the whole or a part of the external land or sea border of a Member State as defined by national legislation or as determined by the national coordination centre or any other responsible national authority;</p>			
<p>(f) 'pre-frontier area' means the geographical area beyond the external border of Member States, which is not covered by a national border surveillance system.</p>		<p>(f) 'pre-frontier area' means the geographical area beyond the external borders of the Member States (...).</p>	<p>Agreement on Council text at trilogue on 27.3.2013.</p>

	AM 55 Article 9 para 3 c) c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents, <i>humanitarian or political crisis</i> and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact <i>at</i> the external borders;	(fa) 'crisis situations' means any natural and/or man-made disasters, accidents and any other serious incident occurring at, along or in the proximity of the external borders of the Member States, which may have a significant impact on the control of the external borders.	Agreement on the following text (fa) 'crisis situations' means any natural and/or man-made disasters, accidents, <i>humanitarian or political crisis</i> and any other serious incident occurring at, along or in the proximity of the external borders of the Member States, which may have a significant impact on the control of the external borders.
	AM 31		
	<i>(fa) 'Agency' means the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Council Regulation (EC) No 2007/2004 of 26 October 2004 (Frontex).</i>	<i>cf point (aa)</i>	EP agreed to drop this AM (moved to (aa)).
	AM 32		
	<i>(fb) 'incident' means an event relating to a potential risk for the lives of migrants, irregular border crossing or cross-border crime at or nearby the external borders of a Member State;</i>		EP wants to keep this definition, the Presidency will submit for agreement to MS the following text: <i>(fb) 'incident' means an event relating to [illegal] immigration, cross-border crime or a risk for the lives of migrants at, along or in the proximity of the external borders of Member States;</i>

	AM 33	AM 33	
	<p><i>(fc) 'interception' means all measures taken by a Member State or a Member State together with the Agency in order to prevent, interrupt or stop cross-border crime or the movement of persons crossing external borders without the required documentation, or to protect lives of migrants and refugees.</i></p>		<p>EP wants to keep this definition but can consider a rewording. Rewording proposed by the Commission, accepted by EP and acceptable in principle for the Presidency but it needs to come back to Member States:</p> <p><i>(fc) 'interception' means all measures taken by a Member State or a Member State supported by the Agency in order to prevent, interrupt or stop cross-border crime or the movement of persons illegally crossing the external borders (...)</i></p>

TITLE II FRAMEWORK			
<i>CHAPTER I</i> <i>Components</i>			
<i>Article 4</i> EUROSUR framework			
1. For the exchange of information and cooperation in the field of border surveillance, Member States and the Agency shall use the framework of EUROSUR, consisting of the following components:		1. For the exchange of information and cooperation in the field of border surveillance and, without prejudice to existing information exchange and cooperation mechanisms , Member States and the Agency shall use the EUROSUR framework (...), consisting of the following components:	Agreement on the following compromise text at trilogue on 27.3.2013: 1. For the exchange of information and cooperation in the field of border surveillance and, taking into account existing information exchange and cooperation mechanisms , Member States and the Agency shall use the EUROSUR framework (...), consisting of the following components:
(a) national coordination centres for border surveillance;		(a) national coordination centres (...);	Agreement on Council text.
(b) national situational pictures;			
	AM 34		
(c) communication network;	(c) <i>data exchange and communication network</i> ;		Agreement on Commission text.
(d) European situational picture;			
(e) common pre-frontier intelligence picture;			
(f) common application of surveillance tools.			

<p>2. The national coordination centres shall provide the Agency via the communication network with all the information from their national situational pictures which is required for the establishment and maintenance of the European situational picture and of the common pre-frontier intelligence picture.</p>		<p>2. The national coordination centres shall provide the Agency via the communication network with (...) information from their national situational pictures which is required for the establishment and maintenance of the European situational picture and of the common pre-frontier intelligence picture.</p>	<p>Agreement on Council text.</p>
<p>3. The Agency shall give the national coordination centres via the communication network unlimited access to the European situational picture and to the common pre-frontier intelligence picture.</p>			
<p>4. The components listed in paragraph 1 shall be established and maintained in line with the principles outlined in the annex.</p>			

<p style="text-align: center;"><i>Article 5</i></p> <p style="text-align: center;"><i>National Coordination Centre</i></p>			
<p>1. Each Member State with land and sea external borders shall designate, operate and maintain a National Coordination Centre for border surveillance, which shall coordinate and exchange information between all authorities with a responsibility for external border surveillance at national level as well as with the other national coordination centres and the Agency. The Member State shall notify the establishment of the centre to the Commission, which shall forthwith inform the other Member States and the Agency.</p>		<p>1. Each Member State (...) shall designate, operate and maintain a National Coordination Centre (...), which shall coordinate and exchange information between all authorities with a responsibility for external border surveillance at national level as well as with the other national coordination centres and the Agency. The Member State shall notify the establishment of the centre to the Commission, which shall forthwith inform the other Member States and the Agency.</p>	<p>Agreement on Council text following agreement on Article 21.</p>
AM 35			
<p>2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation with other national coordination centres and with the Agency.</p>	<p>2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation <i>within the framework of EUROSUR</i> with other national coordination centres and with the Agency.</p>	<p>2. Without prejudice to Article 16, the national coordination centre shall be the single point of contact for the exchange of information and cooperation with other national coordination centres and with the Agency in the context of EUROSUR.</p>	<p>Agreement on the following text:</p> <p>Without prejudice to Article 16 <i>and within the framework of EUROSUR</i>, the national coordination centre shall be the single point of contact for the exchange of information and cooperation with other national coordination centres and with the Agency</p>
AM 36			
<p>3. The national coordination centre shall:</p>	<p>3. The national coordination centre shall, <i>in accordance with national law</i>:</p>	<p>3. The national coordination centre shall <i>inter alia</i>:</p>	<p>Agreement on the following text:</p> <p>3. The national coordination centre shall:.</p>

	AM 37		
(a) ensure the timely information exchange and cooperation between all national authorities with a responsibility for external border surveillance and with relevant law enforcement authorities at national level as well as with other national coordination centres and the Agency;	(a) ensure the timely information exchange and cooperation between all national authorities with a responsibility for external border surveillance and search and rescue and with relevant law enforcement, asylum and immigration authorities at national level as well as with other national coordination centres and the Agency;	(a) ensure the timely information exchange and contribute to the cooperation between all national authorities with a responsibility for external border surveillance and with (...) law enforcement authorities at national level as well as with other national coordination centres and the Agency;	Agreement on the following compromise text subject to an overall agreement on the saving of lives: (a) ensure the timely information exchange and (...) cooperation between all national authorities with a responsibility for external border surveillance (...) as well as with other national coordination centres and the Agency; (aa) ensure the timely information exchange with search and rescue, law enforcement, asylum and immigration authorities at national level;
(b) contribute to an effective and efficient management of resources and personnel;		(b) contribute to an effective and efficient management of resources and personnel in accordance with national law;	Agreement on Commission text.
	AM 38		
	<i>(ba) ensure that its personnel and the personnel of other authorities with a responsibility for external border surveillance are properly trained for detecting and dealing with situations involving vulnerable persons, such as persons in need of international protection, unaccompanied minors and victims of trafficking;</i>		EP could accept to drop its AM in the framework of an overall agreement on fundamental rights.

	AM 39		
	<i>(bb) ensure compliance with human rights and the principle of non-refoulement within each activity carried out by the National Coordination Centre and the other authorities with a responsibility for external border surveillance;</i>		EP could accept to drop its AM in the framework of an overall agreement on fundamental rights.
(c) establish and maintain the National Situational Picture in accordance with Article 9;			
(d) support the planning and implementation of all national border surveillance activities;		(d) support the planning and implementation of (...) national border surveillance activities;	Agreement on Council text.
(e) administer the national border surveillance system, where applicable in accordance with national law;		(e) coordinate (...) the national border surveillance system, (...) in accordance with national law;	Agreement on Council text.
	AM 40		
(f) measure regularly the effects of national border surveillance activities;	(f) measure regularly the effects of national border surveillance activities, <i>including as regards the protection of lives of migrants and refugees, and assess their compliance with fundamental rights and the principle of non-refoulement;</i>	(f) contribute to (...) regularly measuring the effects of national border surveillance activities;	Compromise suggested by the EP at the trilogue on 27.3.2013, in principle acceptable for the Council: (f) contribute to (...) regularly measuring the effects of national border surveillance activities <u>for the purposes of this Regulation</u> "
(g) coordinate operational measures with other Member States, without prejudice to the competences of the Agency.		(g) coordinate operational measures with other Member States, without prejudice to the competences of the Agency and of Member States.	Agreement on Council text.

	AM 41		
	<i>3a. While performing their tasks, staff of the National Coordination Centres shall comply with Union and international law and shall observe fundamental rights and the national law of the Member State.</i>		EP could accept to drop its AM in the framework of an overall agreement on fundamental rights.
4. The national coordination centre shall operate twenty four hours a day and seven days a week.			
<i>Article 6</i> <i>The Agency</i>			
	AM 42		
1. The Agency shall	1. <i>In accordance with Regulation (EC) No 2007/2004 and with the Agency's Fundamental Rights Strategy, the Agency shall</i>		EP could accept to drop its AM in the framework of an overall agreement on fundamental rights.
(a) administer the communication network for EUROSUR in accordance with Article 7;		(a) establish (...) and maintain the communication network for EUROSUR in accordance with Article 7;	Agreement on Council text.
(b) establish and maintain the European situational picture in accordance with Article 10;			
(c) establish and maintain the common pre-frontier intelligence picture in accordance with Article 11;			
(d) facilitate the common application of surveillance tools in accordance with Article 12.		(d) coordinate (...) the common application of surveillance tools in accordance with Article 12.	Agreement on Council text.

	AM 43		
	<i>(da) ensure compliance with human rights and the principle of non-refoulement within each activity carried out in the framework of EUROSUR.</i>		EP could accept to drop its AM in the framework of an overall agreement on fundamental rights.
2. For the purposes of paragraph 1, the Agency shall operate twenty four hours a day and seven days a week.			
	AM 44		
	<i>2a. The Consultative Forum and the Fundamental Rights Officer shall have access to all information concerning respect for fundamental rights, in relation to all the activities of the Agency within the framework of EUROSUR, in accordance with Article 26a of Regulation (EC) No 2007/2004.</i>		Agreement at trilogue on 27.3.2013 to insert a new recital (Recital 6aa) to replace AM 44: New recital 6aa <i>" In accordance with Article 26a(4) of Regulation (EC) No 2007/2004, the Fundamental Rights Officer and the Consultative Forum should have access to all information concerning respect for fundamental rights in relation to all the activities of the Agency within the framework of Eurosur."</i>
<i>Article 7</i> <i>Communication network</i>			
1. The Agency shall establish and maintain a communication network in order to provide communications and analytical tools and allow for the secure exchange of non-classified sensitive and classified information in near real time with and between the national coordination centres. The network shall be operational twenty four hours a day and seven days a week and allow for:		1. The Agency shall establish and maintain a communication network in order to provide communications and analytical tools and allow for the (...) exchange of non-classified sensitive and classified information in a secured manner and in near real time with and between the national coordination centres. The network shall be operational twenty four hours a day and seven days a week and allow for:	Agreement on Council text.

(a) bilateral and multilateral information exchange in near real time;			
(b) audio and video conferencing;			
	AM 45		
(c) secure handling, storing, processing of non-classified sensitive information;	(c) secure handling, storing, transmission and processing of non-classified sensitive information;	(c) secure handling, storing, transmission and processing of non-classified sensitive information;	Agreement - identical texts.
(d) secure handling, storing, transmission and processing of EU classified information up to the level of RESTREINT UE/EU RESTRICTED or equivalent national classification levels, ensuring that classified information is handled in a separate and duly accredited part of the communication network.			
2. The Agency shall provide technical support and ensure that the communication network is interoperable with any other communication and information system managed by the Agency.		2. The Agency shall provide technical support and ensure that the communication network is interoperable with any other relevant communication and information system managed by the Agency.	Agreement on Council text.

	AM 46		
3. The Agency and the national coordination centres shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with rules and standards which apply the basic principles and common standards of or are equivalent to the Commission Decision 2001/844/EC amending its internal Rules of Procedure ¹ .	3. <i>In accordance with Article 11d of Regulation (EC) No 2007/2004</i> , the Agency [...] shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with [...] Commission Decision 2001/844/EC amending its internal Rules of Procedure.	3. The Agency and the national coordination centres shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with rules and standards which apply the basic principles and common standards of (...) Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure ² .	Agreement on the following text: 3. The Agency [...] shall exchange, process and store non-classified sensitive and classified information in the communication network <i>in accordance with Article 11d of Regulation (EC) No 2007/2004</i> .
	AM 47		
	<i>3a. The national coordination centres shall exchange, process and store non-classified sensitive and classified information in the communication network in compliance with rules and standards which are equivalent to the Commission Decision 2001/844/EC amending its internal Rules of Procedure.</i>		Agreement on EP text.
4. Member States' authorities, agencies and other bodies using the communication network shall ensure that equivalent security rules and standards as those applied by the Agency are complied with for the handling of classified information.			

¹ OJ L 317, 3.12.2001, p.1.

² OJ L 317, 3.12.2001, p.1.

<i>CHAPTER II</i> <i>Situational Awareness</i>			
<i>Article 8</i> <i>Situational pictures</i>			
1. The national situational pictures, the European situational picture and the common pre-frontier intelligence picture shall be produced through the collection, evaluation, collation, analysis, interpretation, generation, visualisation and dissemination of information.			
2. The pictures referred to in paragraph 1 shall consist of the following layers:			
(a) an events layer, containing information on incidents concerning irregular migration, cross-border crime and crisis situations;		(a) an events layer, containing information on incidents concerning (...) illegal migration, cross-border crime and crisis situations;	The Presidency proposes to keep Council text with the term "illegal".
(b) an operational layer, containing information on the status and position of own assets, areas of operation and environmental information;		(b) an operational layer, containing information on the status and position of own assets and areas of operation, without prejudice to the legal limitations based on national law and environmental information;	Tech meeting proposes to agree on the following text proposed by COM. An agreement has not been reached on the new wording within the Council (b) an operational layer, containing information on the status and position of own assets, areas of operation and environmental information in accordance with Articles 9 to 11;
(c) an analysis layer, containing strategic information, analytical products, intelligence as well as imagery and geo-data.		(c) an analysis layer, containing strategic information, analytical products (...) and analysed information , as well as imagery and geo-data.	Agreement on Council text.

<i>Article 9</i> <i>National Situational Picture</i>			
	AM 48		
1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in border surveillance at national level with effective, accurate and timely information which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member State concerned.	1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in border surveillance at national level with effective, accurate and timely information which is relevant for <i>the protection of the lives of migrants and refugees</i> , the prevention of irregular migration and cross-border crime at the external borders of the Member State concerned.	1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in (...) control and in particular surveillance of external borders at national level with effective, accurate and timely information which is relevant for the purpose of detecting, preventing (...) and combating (...) illegal migration and cross-border crime at the external borders of the Member State concerned.	Compromise proposed by the Presidency, acceptable for the EP in the framework of an overall agreement on the saving of lives: 1. The national coordination centre shall establish and maintain a national situational picture, in order to provide all authorities with responsibilities in (...) control and in particular surveillance of external borders at national level with effective, accurate and timely information (...).
2. The national situational picture shall be composed of information collected from the following sources:		2. The national situational picture shall be composed of information collected from (...) sources such as:	Agreement on Commission text.
	AM 49		
(a) national border surveillance system, where applicable in accordance with national law;	(a) national border surveillance system, where <i>existing and</i> applicable in accordance with national law;	(a) national border surveillance system (...) in accordance with national law;	Agreement on Council text.
(b) stationary and mobile sensors operated by national authorities with a responsibility for external border surveillance;			
(c) patrols on border surveillance and other monitoring missions;			
(d) local, regional and other coordination centres;			

(e) other relevant national authorities and systems;		(e) other relevant national authorities and systems, which may include liaison officers, centres and contact points;	Agreement on the following text: (e) other relevant national authorities and systems, including liaison officers, operational centres and contact points;
(f) the Agency;			
	AM 50		
(g) national coordination centres in other Member States and in third countries;	(g) national coordination centres in other Member States [...];	(g) national coordination centres in other Member States (...);	Agreement - identical texts.
	AM 51		
	<i>(ga) authorities of third countries;</i>		To be discussed at technical meeting. Compromise proposed by the Presidency: (ga) authorities of third countries, on the basis of bilateral or multilateral agreements and regional networks as referred to in Article[s] 18 [and 18a];
		(ga) (...) bilateral or multilateral agreements and regional networks as referred to in Articles 18 and 18a;	See compromise above.
	AM 52		
(h) regional networks with neighbouring third countries, such as the SEAHORSE Atlantic network, SEAHORSE Mediterranean network, the Baltic Sea Region Border Control Cooperation network CoastNet, the Black Sea Border Coordination and Information Centre and other regional networks set up at the external land borders;	(h) regional networks with neighbouring third countries [...];	deleted	See compromise above.

	AM 53		
(i) ship reporting systems, such as the Automatic Identification System (AIS) and the Vessel Monitoring System (VMS). Data from these systems shall be acquired at national level from the national competent authorities and fisheries monitoring centres;	(i) ship reporting systems [...]. Data from these systems shall be acquired at national level from the national competent authorities and fisheries monitoring centres;	(i) ship reporting systems within their given legal limitations (...);	Agreement on the following text: (i) ship reporting systems in accordance with their respective legal bases ;
(j) other relevant European and international organisations;			
(k) other sources.		deleted	Agreement on Commission text. / See outcome on the introductory part to paragraph 2.
3. The events layer of the national situational picture shall consist of the following sub-layers:			
	AM 54		
(a) a sub-layer on irregular migration, which shall contain information on incidents concerning illegal border crossings of migrants occurring at or nearby the external borders of the Member State concerned, on facilitations of irregular border crossings and on any other relevant irregular migration incident, such as a search and rescue mission for persons attempting to cross the border illegally.	(a) a sub-layer on irregular migration, which shall contain information on incidents concerning illegal border crossings of migrants occurring at or nearby the external borders of the Member State concerned, on facilitations of irregular border crossings and on any other relevant irregular migration incident, such as a search and rescue mission for persons <i>whose life or personal integrity is at risk and who may or may not be</i> attempting to cross the border illegally.	(a) a sub-layer on (...) illegal migration, which (...) contains information on incidents concerning illegal border crossings of (...) third country nationals and occurring at, along or in the proximity of the external borders of the Member State concerned, on facilitations of illegal (...) border crossings and on any other relevant (...) illegal migration incident (...);	If the definition of "incident" is finally included in Article 3, the Presidency then would ask to reconsider the compromise text: (a) <u>a sub-layer on illegal border crossings. This sub-layer may also contain information on incidents concerning the protection of lives of migrants and third-country nationals and stateless persons in need of international protection.</u>

(b) a sub-layer on cross-border crime, which shall contain information on incidents concerning trafficking in human beings, smuggling of drugs and other illicit goods, and on any other serious and organised or organised crime incident at or nearby the external borders of the Member State concerned;		(b) a sub-layer on cross-border crime (...);	
	AM 55		
(c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact on the control of the external borders;	c) a sub-layer on crisis situations, which shall contain information with regard to natural and man-made disasters, accidents, <i>humanitarian or political crisis</i> and any other crisis situation occurring at or nearby the external borders of the Member State concerned, which may have a significant impact <i>at</i> the external borders;	(c) a sub-layer on crisis situations (...);	Agreement on the Council text following the agreement on the definition in Article 3(fa).
(d) a sub-layer on other events, which shall contain information on unidentified and suspect platforms and persons present at or nearby the external borders of the Member State concerned, as well as any other event which may have a significant impact on the control of the external borders;		(d) a sub-layer on other events, which (...) contains information on unidentified and suspect (...), vehicles, vessels and other craft and persons present at, (...) along or in the proximity of the external borders of the Member State concerned, as well as any other event which may have a significant impact on the control of the external borders;	Agreement on the Council text.

	AM 56		
4. Each incident in the events layer of the national situational picture shall be assigned with a single indicative impact level, ranging from 'low' and 'medium' to 'high' impact. All events assigned with a 'medium' to 'high' impact level shall be shared with the Agency.	4. Each incident in the events layer of the national situational picture shall be assigned with a single indicative impact level, ranging from 'low' and 'medium' to 'high' impact. <i>Incidents regarding persons in distress at sea shall be assigned with a 'high' impact level.</i> All events assigned with a 'medium' to 'high' impact level shall be shared with the Agency.	4. The national coordination centre shall attribute a single indicative impact level, ranging from 'low' and 'medium' to 'high' impact to each incident in the events layer of the national situational picture (...). All incidents (...) shall be shared with the Agency.	EP could accept to drop its AM in the framework of an overall agreement on the saving of lives. The Presidency suggests to agree on Council text subject to an agreement on Article 2.
5. The operational layer of the national situational picture shall consist of the following sub-layers:			
(a) a sub-layer on own assets, which shall contain information on position, time, course, speed, status and type of own assets, and of the deployment plan, including the geographic coordinates of the area of operation, patrol schedules and communication codes; where own assets are deployed on a multi-task mission which includes military tasks, the national coordination centre can decide not to share such information with other national coordination centres and the Agency except when the own assets are deployed in the neighbouring border section of another Member State;		(a) a sub-layer on own assets and operational areas , which (...) contains information on position, (...) status and type of own assets, (...) and on the authorities involved ; where own assets are deployed on a multi-task mission which includes military tasks, the national coordination centre can decide not to share such information with other national coordination centres and the Agency (...);	The Presidency suggests to keep Council text and suggests a compromise for Article 9 paragraph 9. New compromise suggested by EP at trilogue on 27.3.2013: (a) a sub-layer on own assets and operational areas , which (...) contains information on position, (...) status and type of own assets, (...) and on the authorities involved ; where own assets are deployed on a multi-task mission which includes military tasks, the national coordination centre <i>may</i> decide not to share such information with other national coordination centres and the Agency <u>(...) if the primary purpose of the patrol is not to prevent [irregular/illegal] migration or cross-border crime"</u>

(b) a sub-layer on areas of operation, which shall contain information on the mission, location, status, duration and the authorities involved in operations;		deleted	
(c) a sub-layer on environmental information, which shall contain or give access to information on terrain and weather conditions at the external borders of the Member State concerned.		(c) a sub-layer on environmental information, which (...) contains or gives access to information on terrain and weather conditions at the external borders of the Member State concerned.	Agreement on Council text.
		5a. The information on own assets in the operational layer shall be classified as EU RESTRICTED.	Agreement on Council text.
6. The analysis layer of the national situational picture shall consist of the following sub-layers:			
	AM 57		
(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration and cross-border crime.	(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of <i>the protection of the lives of migrants and refugees</i> , irregular migration and cross-border crime.	(a) an information sub-layer, which (...) contains key developments and indicators relevant for the analysis of (...) illegal migration and cross-border crime.	Compromise proposed by the Presidency, acceptable for the EP in the framework of an overall agreement on the saving of lives: (a) an information sub-layer, which contains key developments and indicators relevant for the <u>purposes of this Regulation (...)</u> .
(b) an analytical sub-layer, which shall present analytical reports, risk rating trends, regional monitors and briefing notes relevant for the concerned Member State;		(b) an analytical sub-layer, which (...) includes analytical reports, risk rating trends, regional monitors and briefing notes on illegal migration and cross border crime , relevant for the (...) Member State concerned ;	Compromise proposed by the Presidency, acceptable for the EP in the framework of an overall agreement on the saving of lives: (b) an analytical sub-layer, which (...) includes analytical reports, risk rating trends, regional monitors and briefing notes relevant for the <u>purposes of this Regulation (...)</u> ;

	AM 58		
(c) an intelligence picture sub-layer, which shall contain migrant profiles, routes, information on the impact levels attributed to the external land and sea border sections and facilitation analysis.	(c) an intelligence picture sub-layer, which shall contain <i>an analysis of migration flows and routes and their potential risk for the lives of migrants and refugees</i> , information on the impact levels attributed to the external land and sea border sections and [...] analysis of <i>smuggling and trafficking</i> .	(c) an intelligence (...) sub-layer, which (...) contains analysed information on illegal migration and cross border crime relevant for the attribution of (...) the impact levels (...) to the external (...) border sections such as migrant profiles, routes and facilitation analysis.	Compromise proposed by the Presidency, acceptable for the EP in the framework of an overall agreement on the saving of lives: (c) an intelligence (...) sub-layer, which (...) contains analysed information relevant for the purposes of this Regulation and, in particular, for the attribution of (...) the impact levels (...) to the external (...) border sections (...) .
	AM 59		
(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.	(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and <i>external</i> border permeability maps.	(d) an imagery and geo-data sub-layer, which (...) includes reference imagery, background maps, (..) validation of analysed information (...) and change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.	Agreement on the following text: (d) an imagery and geo-data sub-layer, which (...) includes reference imagery, background maps, (..) validation of analysed information (...) and change analysis (earth observation imagery) as well as change detection, geo-referenced data and external border permeability maps.
	AM 60		
	<i>(da) all crisis situations related to preventing the loss of human lives and rescuing people at the land and sea borders of the Member State concerned.</i>		EP AM 60 unacceptable for the Council. EP could accept to drop its AM in the framework of an overall agreement on the saving of lives.

7. The information contained in the analysis layer and on environmental information in the operational layer of the national situational picture may be based on the information provided in the European situational picture and in the common pre-frontier intelligence picture.			
8. The information on own assets in the operational layer shall be classified as EU Restricted.		deleted	Agreement on Council's deletion.
9. The national coordination centres of neighbouring Member States shall share with each other directly and in near real time the situational picture of neighbouring external border sections relating to:			Discussed in the context of Article 9(5)(a)The Presidency suggests the following compromise to examine in conjunction with Council text for Article 9 paragraph 5: For the introductory part, the Presidency suggests to keep Commission text.
(a) all incidents concerning irregular migration and cross-border crime and other significant events contained in the events layer;		(...) incidents concerning (...) illegal migration and cross-border crime and other significant events contained in the events layer.	The Presidency insists on keeping Council text.
(b) the positions of own patrols contained in the operational layer, when the primary mission of the patrol is to prevent irregular migration and cross-border crime;		deleted	The Presidency suggests to keep Commission text
		9a The national coordination centres of neighbouring Member States may share with each other directly and in near real time the situational picture of neighbouring external border sections relating to:	The Presidency suggests to delete Council text and replace it with the following compromise:

		(a) the positions of own patrols contained in the operational layer, when the primary mission of the patrol is to prevent (...) illegal migration and cross-border crime;	The Presidency suggests to delete Council text.
(c) the planning schemes, schedules and communication codes for the following day of patrols operating in the neighbouring external border sections;		(b) the planning schemes, schedules and communication codes for the following day of patrols operating in the neighbouring external border sections;	The Presidency suggests to keep Commission text for letter (c).
(d) tactical risk analysis reports as contained in the analysis layer.		(c) tactical risk analysis reports as contained in the analysis layer.	The Presidency suggests to keep Commission text for letter (d).

			<p>The Presidency suggests to add a new paragraph 9a with the following text:</p> <p>9a. In relation to points b and c of paragraph 9, the national coordination centre may decide not to share such information with the national coordination centres of neighbouring Member States where own assets are deployed on a multi-task mission which includes military tasks.</p> <p>New compromise suggested by the EP at trilogue on 27.3.2013</p> <p>9a. In relation to points b and c of paragraph 9, the national coordination centre may decide not to share such information with the national coordination centres of neighbouring Member States where own assets are deployed on a multi-task mission which includes military tasks <u>if the primary purpose of the patrol is not to prevent [irregular/illegal] migration or cross-border crime.</u></p>
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	AM 61		
	<i>9a. All information on situations where migrants and refugees are found in distress at sea shall be shared immediately with the Agency and the national coordination centres, which shall immediately inform the Maritime Rescue Coordination Centre responsible for the area in which the situation occurs.</i>		EP AM 61 unacceptable for the Council. EP could accept to drop its AM in the framework of an overall agreement on the saving of lives.
<i>Article 10</i> <i>European Situational Picture</i>			
	AM 62		
1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for the prevention of irregular migration and cross-border crime at the external borders of the Member States.	1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for <i>the protection of the lives of migrants and refugees and</i> the prevention of irregular migration and cross-border crime at the external borders of the Member States.	1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with information and analysis which is relevant for the purpose of detecting, preventing (...) and combating (...) illegal migration and cross-border crime at the external borders of the Member States.	Compromise proposed by the Presidency, acceptable for the EP in the framework of an overall agreement on the saving of lives: 1. The Agency shall establish and maintain a European situational picture in order to provide the national coordination centres with <u>effective, accurate and timely information and analysis (...)</u> .
2. The European Situational Picture shall be composed of information collected from the following sources:		2. The European situational picture shall be composed of information collected from (...) sources such as:	Agreement on Commission text.

	AM 63		
(a) national situational pictures, including basic information received under Article 9(8);	(a) national situational pictures, including basic information received under Article 9(5)(a);	(a) national situational pictures as authorised by the national coordination centre, in compliance with the provisions of this Article (...) ;	At trilogue on 27.3.2013, agreement on the following compromise text: (a) national situational pictures <i>to the extent required by this Article</i> ,
(b) the Agency;			
	AM 64		
	<i>(ba) European Union delegations and offices;</i>		EP AM 64 in principle acceptable for the Council.
	AM 65		
(c) other relevant European and international organisations;	(c) other relevant European and international organisations, <i>including entities referred to in Article 17;</i>	(c) other relevant Union (...) agencies, bodies and international organisations as referred to in Article 17;	Agreement on the following text: (c) other relevant Union (...) agencies, Union bodies and international organisations as referred to in Article 17;
(d) other sources.		deleted	Agreement on Commission text.
3. The events layer of the European situational picture shall include information relating to:			
(a) incidents regarding irregular migration and cross-border crime as well as crisis situations and on other events contained in the events layer of the national situational picture, which has been assigned with a medium or high impact level by the national coordination centre;		(a) incidents regarding (...) illegal migration and cross-border crime as well as crisis situations and (...) other events contained in the events layer of the national situational picture (...);	Compromise proposed by the Presidency, acceptable for the EP if a solution is found on the definition of "incidents" and as part of the package on saving of lives: (a) incidents (...) contained in the events layer of the national situational picture (...);

	AM 66		
(b) incidents regarding irregular migration and cross-border crime as well as crisis situations and other events contained in Common Pre-Frontier Intelligence Picture, once it is having a moderate or significant impact on the external borders of the Member States;	(b) incidents regarding irregular migration and cross-border crime as well as crisis situations and other events contained in Common Pre-Frontier Intelligence Picture, which have a medium or high impact on the external borders of the Member States;	(b) incidents regarding (...) illegal migration and cross-border crime as well as crisis situations and other events contained in the Common Pre-Frontier Intelligence Picture (...);	Compromise proposed by the Presidency, acceptable for the EP if a solution is found on the definition of "incidents" and as part of the package on saving of lives: (b) incidents (...) and other events contained in the Common Pre-Frontier Intelligence Picture (...);
(c) incidents regarding irregular migration and cross-border crime in the operational area of a joint operation coordinated by the Agency.		(c) incidents regarding (...) illegal migration and cross-border crime in the operational area of a joint operation coordinated by the Agency.	Compromise proposed by the Presidency, acceptable for the EP if a solution is found on the definition of "incidents" and as part of the package on saving of lives, modified at trilogue on 27.3.2013: (c) incidents (...) in the operational area of a joint operation, <u>pilot project or rapid intervention</u> coordinated by the Agency.
4. In the European situational picture the Agency shall use the impact level that was assigned to a specific incident in the national situational picture by the national coordination centre.		4. In the European situational picture the Agency shall (...) take into account the impact level that was assigned to a specific incident in the national situational picture by the national coordination centre.	Agreement on Council text.
5. The <i>operational layer</i> of the European situational picture shall consist of the following sub-layers:			

	AM 67		
(a) a sub-layer on own assets, which shall contain information on the position, time, course, speed status and type of assets participating in the Agency joint operations or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;	(a) a sub-layer on own assets, which shall contain information on the position, time, course, speed status and type of assets participating in the Agency joint operations <i>and pilot projects</i> or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;	(a) a sub-layer on own assets, which (...) contains information on the position, time, (...) status and type of assets participating in the Agency joint operations or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;	Agreement on the following text: (a) a sub-layer on own assets, which (...) contains information on the position, time, (...) status and type of assets participating in the Agency joint operations, <i>pilot projects and rapid interventions</i> or at the disposal of the Agency, and the deployment plan, including the area of operation, patrol schedules and communication codes;
	AM 68		
(b) a sub-layer on operations, which shall contain information on the joint operations coordinated by the Agency, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media;	(b) a sub-layer on operations, which shall contain information on the joint operations <i>and pilot projects</i> coordinated by the Agency, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media;	(b) a sub-layer on operations, which (...) contains information on the joint operations coordinated by the Agency, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media;	Agreement on the following text: (b) a sub-layer on operations, which (...) contains information on the joint operations, <i>pilot projects and rapid interventions</i> coordinated by the Agency, including the mission statement, location, status, duration, information on the Member States and other actors involved, daily and weekly situational reports, statistical data and information packages for the media;
(c) a sub-layer on environmental information, which shall include information on terrain and weather conditions at the external borders of the Member States.		(c) a sub-layer on environmental information, which (...) includes information on terrain and weather conditions at the external borders of the Member States.	Agreement on Council text.
		5bis. The information on own assets in the operational layer of the European situational picture shall be classified as EU RESTRICTED.	Agreement on Council text.

		5ter. The European Situational Picture shall not be used for the visualisation of any personal data with the exception of the registration numbers of vessels.	Agreement to delete Council text at trilogue on 27.3.2013.
6. The analysis layer of the European situational picture shall consist of the following sub-layers:			Compromise proposed by COM can be accepted by the Council: 6. The analysis layer of the European situational picture shall be structured in the same manner as in the National Situational Picture. EP cannot accept if it means AM 70 has to be dropped.
	AM 69		
(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration and cross-border crime;	(a) an information sub-layer, which shall contain key developments and indicators relevant for the analysis of irregular migration, <i>the protection of migrants and refugees</i> and cross-border crime;	(a) an information sub-layer, which (...) contains key developments and indicators relevant for the analysis of (...) illegal migration and cross-border crime;	Following compromise by COM on (6), would be deleted.
(b) an analytical sub-layer, which shall present overall and subcategory risk ratings maps; risk rating trends; regional monitors; briefing notes as well as correlation indicators for the risk ratings and Frontex Risk Analysis Network indicators;		(b) an analytical sub-layer, which (...) includes (...) analytical reports , risk rating trends, regional monitors and briefing notes on illegal migration and cross border crime (...) ;	Following compromise by COM on (6), would be deleted.

	AM 70		
	<i>(ba) an analytical sub-layer, which shall present relevant information provided by the Commission, including potential deficiencies and risks, based on assessments undertaken in the framework of the Schengen Evaluation Mechanism;</i>		New compromise proposed by the EP at trilogue on 27.3.2013: <i>(ba) an analytical sub-layer, which shall present relevant information provided by the Commission, including potential deficiencies and risks; (...)</i>
	AM 71		
(c) an intelligence picture sub-layer, which shall contain migrant profiles, routes, information on the impact levels attributed to the external land and sea border sections and facilitation analysis;	(c) an intelligence picture sub-layer, which shall contain <i>an analysis of migration flows and routes and their potential risk for the lives of migrants and refugees</i> , information on the impact levels attributed to the external land and sea border sections and [...] <i>analysis of smuggling and trafficking</i> .	(c) an intelligence (...) sub-layer, which (...) contains analysed information on illegal migration and cross border crime relevant for the attribution of (...) the impact levels (...) to the external (...) border sections such as migrant profiles, routes and facilitation analysis;	Following compromise by COM on (6), would be deleted.
	AM 72		
(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.	(d) an imagery and geo-data sub-layer, which shall contain reference imagery, background maps, intelligence validation assessments, change analysis (earth observation imagery) as well as change detection, geo-referenced data and <i>external</i> border permeability maps.	(d) an imagery and geo-data sub-layer, which (...) includes reference imagery, background maps, (...) validation of analysed information(...) and change analysis (earth observation imagery) as well as change detection, geo-referenced data and border permeability maps.	Following compromise by COM on (6), would be deleted.
6. The information on own assets in the operational layer of the European situational picture shall be classified as EU Restricted.		deleted	Agreement on Council text.

	AM 73		
	<i>7a. If the Agency gains knowledge of persons in distress at sea, it shall immediately inform the neighbouring national coordination centres for the area in which the situation occurs. The Agency shall confirm the responsibility of the Member State concerned and coordinate the appropriate actions.</i>		EP AM 73 linked to AMS 7, 61 and 80. All these amendments are unacceptable for the Council. EP could accept to drop its AM in the framework of an overall agreement on the saving of lives.
<i>Article 11 Common Pre-Frontier Intelligence Picture</i>			
	AM 74		
1. The Agency shall establish and maintain a common pre-frontier intelligence picture in order to provide the national coordination centres with information and analysis on the pre-frontier area which is relevant for the prevention of irregular migration and serious or organised crime at the external borders of the Member States and in neighbouring third countries.	1. The Agency shall establish and maintain a common pre-frontier intelligence picture in order to provide the national coordination centres with information and analysis on the pre-frontier area which is relevant for the protection of the lives of migrants and refugees and the prevention of irregular migration and serious or organised crime at the external borders of the Member States and in neighbouring third countries.	1. The Agency shall establish and maintain a common pre-frontier intelligence picture in order to provide the national coordination centres with information and analysis on the pre-frontier area which is relevant for the purpose of detecting, preventing (...) and combating (...) illegal migration and (...) cross border crime at the external borders of the Member States and in neighbouring third countries.	Compromise proposed by the Presidency, acceptable for the EP in the framework of an overall agreement on the saving of lives: 1. The Agency shall establish and maintain a common pre-frontier intelligence picture in order to provide the national coordination centres with <u>effective, accurate and timely information and analysis (...)</u> on the pre-frontier area. (...)
2. The common pre-frontier intelligence picture shall be composed of information collected from the following sources:		2. The common pre-frontier intelligence picture shall be composed of information collected from (...) sources such as:	Agreement on Commission text.
(a) national coordination centres;		(a) national coordination centres, including information and reports received from Member States' liaison officers via the competent national authorities;	Agreement on Council text.

(b) information and reports provided by immigration liaison officers;		deleted	Agreement on Council text.
	AM 75		
	<i>(ba) European Union delegations and offices;</i>		EP AM 75 acceptable for Council.
(c) the Agency;		(c) the Agency, including information and reports provided by Frontex liaison officers;	Agreement on following text: c) the Agency, including information and reports provided by its liaison officers;
	AM 76		
(d) other relevant European and international organisations;	(d) other relevant European and international organisations, including entities referred to in Article 17;		Agreement on the following text, (c) other relevant Union (...) agencies, Union bodies and international organisations as referred to in Article 17;
(e) third countries;			To be discussed at technical meeting. To align the text with similar paragraph in Article 9 (2) (ga), the Presidency suggests to merge letters (e) and (ea) with the following text: (ea) authorities of third countries, on the basis of (...) bilateral or multilateral agreements and regional networks as referred to in Article[s] 18 [and 18a], via the national coordination centres;
		(ea) (...) bilateral or multilateral agreements and regional networks as referred to in Articles 18 and 18a, as authorised by the national coordination centres;	See compromise text above.

(f) other sources.		deleted	Agreement on Commission text / See comment on introductory part of paragraph.
	AM 77		
3. The common pre-frontier intelligence picture may contain information which is relevant for air border surveillance operations and checks at border crossing points.	3. The common pre-frontier intelligence picture may contain information which is relevant for air border surveillance operations and checks at <i>external</i> border crossing points.	3. The common pre-frontier intelligence picture may contain information which is relevant for air border surveillance (...) and checks at border crossing points.	Agreement on the following compromise text: 3. The common pre-frontier intelligence picture may contain information which is relevant for air border surveillance (...) and checks at external border crossing points.
	AM 78		
4. The events layer of the common pre-frontier intelligence picture shall include information on: any incident, crisis situation and on any other event in the pre-frontier area, which could have a moderate or significant impact on irregular migration and cross-border crime at the external borders of the Member States.	4. The events layer of the common pre-frontier intelligence picture shall include information on any incident, crisis situation and on any other event in the pre-frontier area, which could have a <i>medium</i> or <i>high</i> impact on <i>the protection of lives of migrants and refugees</i> , irregular migration and cross-border crime at the external borders of the Member States. <i>The impact level shall be assigned by the Agency.</i>	4. The events, operational and analysis layers of the common pre-frontier intelligence picture shall be structured in the same manner as in the European Situational Picture (...). The Common Pre-Frontier Intelligence Picture shall not be used for the visualisation of any personal data with the exception of the registration numbers of vessels.	Agreement to keep the first sentence of Council text and delete the second one.
	AM 79		
5. The Agency shall assign a single indicative impact level to each incident in the events layer of the common pre-frontier intelligence picture. The Agency shall inform the national coordination centres on any incident in the pre-frontier area, which has been assigned with a medium or high impact level.	<i>deleted</i>	5. The Agency shall assign a single indicative impact level to each incident in the events layer of the common pre-frontier intelligence picture. The Agency shall inform the national coordination centres on any incident in the pre-frontier area (...).	Agreement on Council text at trilogue on 27.3.2013.

6. The operational layer of the common pre-frontier intelligence picture shall be structured in the same manner as in the European situational picture, containing information on assets operating and operations being carried out in the pre-frontier area as well as environmental information.		deleted	Agreement on Council text, linked to paragraph 4.
7. The analysis layer of the common pre-frontier intelligence picture shall be structured like the one of the European situational picture, containing strategic information, analytical products and services, intelligence as well as imagery and geo-data on the pre-frontier area.		deleted	Agreement on Council text, linked to paragraph 4.
	AM 80		
	<i>7a. If the Agency gains knowledge of migrants and refugees in distress at sea, Article 10(7a) shall apply.</i>		EP could drop its AM in the framework of an overall agreement on the saving of lives subject to agreement on Article 2 (scope).
<i>Article 12</i> <i>Common application of surveillance tools</i>			
1. The Agency shall facilitate the common application of surveillance tools, such as satellites and ship reporting systems, by Member States in order to supply the national coordination centres and itself with surveillance information on the external borders and on the pre-frontier area on a regular, reliable and cost-efficient basis.		1. The Agency shall coordinate (...) the common application of available surveillance tools,(...) in order to supply the national coordination centres and itself with surveillance information on the external borders and on the pre-frontier area on a regular, reliable and cost-efficient basis.	Agreement on the following text 1. The Agency shall coordinate (...) the common application of surveillance tools,(...) in order to supply the national coordination centres and itself with surveillance information on the external borders and on the pre-frontier area on a regular, reliable and cost-efficient basis.

2. The Agency may provide a national coordination centre upon request with information on the external borders of the requesting Member State and on the pre-frontier area which is derived from:		2. The Agency shall (...) provide a national coordination centre upon its request with information on the external borders of the requesting Member State and on the pre-frontier area which is derived from:	New Presidency compromise text: 2. The Agency shall (...) provide a national coordination centre upon its request with information on the external borders of the requesting Member State and on the pre-frontier area which <u>may be derived</u> from:
	AM 81		
(a) selective monitoring of designated third country ports and coasts which have been identified through risk analysis and intelligence as embarkation or transit points for vessels used for irregular migration and cross-border crime;	(a) selective monitoring of designated third country ports and coasts which have been identified through risk analysis and intelligence as embarkation or transit points for vessels used for irregular migration or cross-border crime;	(a) selective monitoring of designated third country ports and coasts which have been identified through risk analysis and (...) information as embarkation or transit points for vehicles, vessels and other craft used for (...) illegal migration or (...) cross-border crime;	Agreement on Council text, with a reservation by EP on "illegal".
	AM 82		
(b) tracking of a vessel over high seas which is suspected of or has been identified as being used for irregular migration and cross-border crime;	(b) tracking of a vessel over high seas which is suspected of or has been identified as being used for irregular migration or cross-border crime;	(b) tracking of a vessel and other craft over high seas which is suspected of or has been identified as being used for (...) illegal migration or (...) cross-border crime;	Agreement on Council text, with a reservation by EP on "illegal".
	AM 83		
(c) monitoring of designated areas in the maritime domain in order to detect, identify and track vessels suspected of or used for irregular migration and cross-border crime;	c) monitoring of designated areas in the maritime domain in order to detect, identify and track vessels suspected of or used for irregular migration or cross-border crime;	(c) monitoring of designated areas in the maritime domain in order to detect, identify and track vehicles, vessels and other craft suspected of or used for (...) illegal migration or (...) cross-border crime;	Agreement on Council text, with a reservation by EP on "illegal".
(d) environmental assessment of designated areas in the maritime domain and at the external land border in order to optimise monitoring and patrolling activities;			

	AM 84		
(e) selective monitoring of designated pre-frontier areas at the external land border, which have been identified through risk analysis and intelligence as potential departure or transit areas for irregular migration and cross-border crime.	(e) selective monitoring of designated pre-frontier areas at the external land border, which have been identified through risk analysis and intelligence as potential departure or transit areas for irregular migration <i>or</i> cross-border crime.	(e) selective monitoring of designated pre-frontier areas at the external (...) borders, which have been identified through risk analysis and (...) information as potential departure or transit areas for (...) illegal migration or (...) cross-border crime.	Agreement on Council text, with a reservation by EP on "illegal":
3. The Agency may provide the information referred to in paragraph 1 by combining and analysing data collected from the following systems, sensors and platforms:		3. The Agency shall (...) provide the information referred to in paragraph 1 by combining and analysing data collected from the following systems, sensors and platforms:	New Presidency compromise text: 3. The Agency shall (...) provide the information referred to in paragraph 1 by combining and analysing data <i>which may be collected</i> from the following systems, sensors and platforms:
	AM 85		
(a) ship reporting systems within their given legal limitations, such as the Automated Identification System (AIS) and the Vessel Monitoring System (VMS);	(a) ship reporting systems within their given legal limitations [...];	(a) ship reporting systems within their given legal limitations (...);	Agreement on the following text (consequential change, see Article 9(2)(i): (a) ship reporting systems in accordance with their respective legal bases ;
(b) satellite imagery;			
(c) sensors mounted on any platforms, including manned and unmanned aerial vehicles.		(c) sensors mounted on any vehicles, vessels or other craft (...), including manned and unmanned aerial vehicles.	Agreement on the following text: (c) sensors mounted on any vehicles, vessels or other craft (...).
4. The Agency may refuse a request from a national coordination centre on the basis of technical and financial limitations as well as for other justified reasons.		4. The Agency may refuse a request from a national coordination centre on the basis of technical and financial limitations as well as for other justified operational reasons. The Agency shall notify in due time the national coordination centre with the reasons for such a refusal.	New compromise by the Presidency: 4. The Agency may refuse a request from a national coordination centre on the basis of technical, financial <i>or operational</i> (...) reasons. The Agency shall notify in due time the national coordination centre with the reasons for such a refusal.

5. The Agency may use on its own initiative the surveillance tools referred to in paragraph 2 for collecting information which is relevant for the common pre-frontier intelligence picture.			
	AM 86		Agreement on the following compromise text subject to confirmation by Council on the "six weeks".
	<i>Article 12a</i> Processing of personal data	Article 12a Processing of personal data	Article 12a Processing of personal data
	<i>1. The National Situational Picture may be used for processing personal data to the extent necessary for the purposes of EUROSUR in accordance with Directive 95/46/EC, the national legislation implementing it and other relevant national legislation.</i>	1. Where the National Situational Picture is used for processing of personal data, it shall be processed in accordance with Directive 95/46/EC¹, Council Framework Decision 2008/977/JHA and the relevant national provisions on data protection.	1. Where the National Situational Picture is used for processing of personal data, it shall be processed in accordance with Directive 95/46/EC², Council Framework Decision 2008/977/JHA and the relevant national provisions on data protection.

¹ OJ L 281, 23.11.1995, p. 31.

² OJ L 281, 23.11.1995, p. 31.

	<p>2. <i>The European Situational Picture and the Common Pre-Frontier Intelligence Picture may only be used for processing personal data:</i></p> <p><i>(a) for the registration numbers of vehicles, vessels and other craft, which shall be processed in accordance with Regulation (EC) No 45/2001 and with Directive 95/46/EC;</i></p> <p><i>(b) to the extent allowed by paragraph 3 of Article 11c of Regulation (EC) No 2007/2004.</i></p>	<p>2. The European Situational Picture and the Common Pre-Frontier Intelligence Picture may only be used for the processing of personal data concerning ship identification numbers.</p> <p>This personal data shall be processed in accordance with Article 11ca of Regulation (EC) No 2007/2004. This data shall only be processed for the purposes of detection, identification and tracking of vessels and for the purposes referred to in Article 11c(3) of Regulation (EC) No 2007/2004. It shall automatically be deleted after seven days following the receipt of the relevant data by the Agency. Where a specific case has triggered a particular follow-up due to reasonable suspicion of illegal migration or cross-border crime, the relevant data may be processed for a longer time, provided it is automatically deleted at the latest three months following its receipt by the Agency.</p>	<p>2. The European Situational Picture and the Common Pre-Frontier Intelligence Picture may only be used for the processing of personal data concerning ship identification numbers.</p> <p>This personal data shall be processed in accordance with Article 11ca of Regulation (EC) No 2007/2004. This data shall only be processed for the purposes of detection, identification and tracking of vessels <u>as well as</u> for the purposes referred to in Article 11c(3) of Regulation (EC) No 2007/2004. It shall automatically be deleted within seven days or, <u>in case additional time is needed for tracking a vessel</u>, within [six weeks] following the receipt of the relevant data by the Agency.</p>
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<p style="text-align: center;"><i>CHAPTER III</i></p> <p style="text-align: center;"><i>Reaction Capability</i></p>			<p>Articles 13, 14 and 15 to be discussed at trilogue on 22.4.2013. The Presidency has suggested several compromise texts, where nothing is indicated, it means that the Presidency would like to keep the Council text.</p>
<p style="text-align: center;"><i>Article 13</i></p> <p style="text-align: center;"><i>Determination of external border sections</i></p>			
<p>Each Member State shall divide its external land and sea borders into border sections, with a local or regional coordination centre ensuring the effective and efficient management of personnel and resources.</p>		<p>For the purpose of this Regulation, each Member State shall divide its external land and sea borders into border sections (...) which shall be notified to the Agency.</p>	
<p style="text-align: center;"><i>Article 14</i></p> <p style="text-align: center;"><i>Attribution of impact levels to external border sections</i></p>			
	AM 87		
<p>1. Based on the Agency's risk analysis and after consultation of the Member States concerned, the Agency shall attribute the following impact levels to each of the external land and sea border sections of Member States:</p>	<p>1. Based on the Agency's risk analysis, <i>on relevant aspects of the assessments undertaken in the framework of the Schengen Evaluation Mechanism</i> and after consultation of the Member States concerned, the Agency shall attribute the following impact levels to each of the external land and sea border sections of Member States:</p>	<p>1. Based on the Agency's risk analysis and (...) in agreement with the Member State concerned, the Agency shall attribute or change the following impact levels to each of the external land and sea border sections of Member States:</p>	<p>EP AM 87 unacceptable for the Council.</p>

	AM 88		
(a) low impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have an insignificant impact on border security;	(a) low impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have an insignificant impact on border security <i>or migrant safety</i> ;	(a) low impact level in case the incidents related to (...) illegal migration or (...) cross-border crime occurring at the border section in question have an insignificant impact on border security;	Presidency compromise proposal: (a) low impact level in case the incidents (...) occurring at the border section in question have an insignificant impact on border security;
	AM 89		
(b) medium impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a moderate impact on border security;	(b) medium impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a moderate impact on border security <i>or migrant safety</i> ;	(b) medium impact level in case the incidents related to (...) illegal migration or (...) cross-border crime occurring at the border section in question have a moderate impact on border security;	Presidency compromise proposal: (b) medium impact level in case the incidents (...) occurring at the border section in question have a moderate impact on border security;
	AM 90		
(c) high impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a significant impact on border security.	(c) high impact level in case the incidents related to irregular migration and cross-border crime occurring at the border section in question have a significant impact on border security <i>or migrant safety, or in cases the incidents relate to migrants and refugees in an emergency situation at sea.</i>	(c) high impact level in case the incidents related to (...) illegal migration or (...) cross-border crime occurring at the border section in question have a significant impact on border security.	Presidency compromise proposal: (c) high impact level in case the incidents (...) occurring at the border section in question have a significant impact on border security.
2. The national coordination centre shall regularly assess whether there is a need to adjust the impact level of any of the border sections. The national coordination centre may invite the Agency to change the impact level by providing substantiated information on the altered conditions at the external border section concerned.		2. The national coordination centre shall regularly assess whether there is a need to change (...) the impact level of any of the border sections by taking into account the information contained in the national situational picture. The Agency in agreement with the Member State concerned shall change the impact level accordingly. (...)	Presidency compromise text: 2. The national coordination centre shall regularly assess whether there is a need to change (...) the impact level of any of the border sections by taking into account the information contained in the national situational picture. (...)

3. The Agency shall visualise of the impact levels attributed to the external borders in the European situational picture.		3. The Agency shall visualise (...) the impact levels attributed to the external borders in the European situational picture.	Agreement on Council text.
<i>Article 15</i> <i>Reaction corresponding to impact levels</i>			
1. The Member States shall ensure that the surveillance and patrolling activities carried out at the external border sections correspond to the attributed impact levels in the following manner:		1. The Member States shall ensure that the surveillance (...) activities carried out at the external border sections correspond to the attributed impact levels in the following manner:	Agreement on Council text.
	AM 91		
(a) where a low impact level is attributed to an external border section, the local or regional coordination centre shall organize regular surveillance on the basis of risk analysis and ensure that sufficient patrols are being kept in the border area in readiness for tracking, identification and interception;	(a) where a low impact level is attributed to an external border section, the local or regional coordination centre shall organize regular surveillance on the basis of risk analysis and ensure that sufficient patrols are being kept in the border area in readiness for tracking, identification, interception <i>and rescue</i> ;	(a) where a low impact level is attributed to an external border section, the national authorities with a responsibility for external border surveillance (...) shall (...) ensure that surveillance activities are on a sufficient level of (...) readiness for tracking, identification and interception;	Presidency compromise text: (a) where a low impact level is attributed to an external border section, the national authorities with a responsibility for external border surveillance shall <u>organise regular monitoring of the respective border section on the basis of risk analysis and ensure that sufficient personnel and resources are being kept in the border area in readiness for detection</u> , tracking, identification and interception;

<p>(b) where a medium impact level is attributed to an external border section, the national coordination centre shall support the local or regional coordination centre by the temporary allocation of additional personnel and resources;</p>		<p>(b) where a medium impact level is attributed to an external border section, the national authorities with a responsibility for external border surveillance shall be notified by the national coordination centre and shall ensure that the appropriate surveillance activities are being taken at the affected border sections; when taking those additional measures the national coordination centre shall be notified accordingly (...);</p>	<p>Presidency compromise text:</p> <p>(b) where a medium impact level is attributed to an external border section, the national authorities with a responsibility for external border surveillance shall ensure that <u>appropriate surveillance measures are being taken at this border section.</u> When taking those measures, the national coordination centre shall be notified accordingly. <u>The national coordination centre shall coordinate any support given at national level, such as the temporary allocation of additional resources and personnel;</u></p>
<p>(c) where a high impact level is attributed to an external border section, the national coordination centre shall ensure that the local or regional coordination centre is given all necessary support at national level, including information, resources and personnel; the national coordination centre may also request the Agency for support in accordance with the provisions of Regulation (EC) No 2007/2004.</p>		<p>(c) where a high impact level is attributed to an external border section, the Member State concerned shall be notified by the national coordination centre and shall ensure that the national authorities with a responsibility for external border surveillance operating at the external border section concerned (...) are given the (...) necessary support at national level (...); the Member State concerned (...) may also request the Agency for support (...) subject to the conditions laid down in Regulation (EC) No 2007/2004 for initiating joint operations or rapid interventions.</p>	<p>Presidency compromise text:</p> <p>(c) where a high impact level is attributed to an external border section, the Member State concerned supported by the national coordination centre shall ensure <u>that the national authorities operating at this border section are given the necessary support at national level.</u> That Member State may request the Agency for support subject to the conditions for initiating joint operations or rapid interventions as laid down in Regulation (EC) No 2007/2004.</p>

<p>2. The national coordination centre shall inform the Agency about the measures taken at national level pursuant to points (b) and (c) of paragraph 1 without any delay.</p>		<p>2. When a Member State requests the support of the Agency, pursuant to point (c) of paragraph 1, the national coordination centre shall as soon as possible inform the Agency about the measures taken at national level (...).</p>	<p>Presidency compromise text:</p> <p>2. When a Member State requests the support of the Agency, pursuant to point (c) of paragraph 1, the national coordination centre shall <i>regularly</i> inform the Agency about the measures taken at national level (...).</p>
	<p>AM 92</p>		
<p>3. Where a medium or high impact level is attributed to an external border section which is adjacent to the border section of another Member State or a third country, the national coordination centre shall coordinate the measures taken with the national coordination centre of the neighbouring country.</p>	<p>3. Where a medium or high impact level is attributed to an external border section which is adjacent to the border section of another Member State or a third country, the national coordination centre shall coordinate the measures taken with the national coordination centre of the neighbouring country <i>and the Agency</i>.</p>	<p>3. Where a medium or high impact level is attributed to an external border section which is adjacent to the border section of another Member State or another (...) country with which relevant bilateral or multilateral agreements are in place as referred to in Articles 18 and 18bis, the national coordination centre shall (...) contact (...) the national coordination centre of the neighbouring Member State or the competent authority of the neighbouring country and shall endeavour to coordinate the necessary cross border measures.</p>	
<p>4. Where a national coordination centre submits a request according to point (c) of paragraph 1, the Agency may support that centre in particular by</p>		<p>4. Where a Member State (...) submits a request according to point (c) of paragraph 1, the Agency (...) shall support that Member State (...) in particular by:</p>	
<p>(a) giving priority treatment for the common application of surveillance tools;</p>			

(b) coordinating the deployment of European Border Guard Teams in accordance with Regulation (EC) No 2007/2004;			
(c) ensuring the deployment of technical equipment at the disposal of the Agency in accordance with Regulation (EC) No 2007/2004;			
(d) coordinating any additional support offered by Member States.		deleted	Presidency compromise text: (d) coordinating any additional support offered by other Member States.
5. The Agency shall evaluate the attribution of impact levels and the corresponding measures taken at national and Union level in its risk analysis reports.		5. The Agency shall evaluate together with Member States the attribution of impact levels and the corresponding measures taken at national and Union level in its risk analysis reports.	
TITLE IV SPECIFIC PROVISIONS			
<i>Article 16</i> <i>Allocation of tasks to other centres in the Member States</i>		Article 16 Allocation of tasks to other authorities (...) in the Member States	Agreement on Council text.
1. Member States may entrust regional, local, functional or other centres, which are in the position to take operational decisions, with ensuring the situational awareness and reaction capability in the respective area of competence, including the tasks and competences referred to in points (b), (d) and (e) of Article 5(3).		1. Member States may entrust regional, local, functional or other (...) authorities , which are in the position to take operational decisions, with ensuring the situational awareness and reaction capability in the respective area of competence, including the tasks and competences referred to in points (b), (d) and (e) of paragraph 3 of Article 5 (...).	Agreement on Council text.

<p>2. The decision of the Member State referred to in paragraph 1 shall not affect the national coordination centre in its ability to cooperate and exchange information with other national coordination centres and the Agency.</p>			
<p>3. In pre-defined cases the national coordination centre may authorise a centre referred to in paragraph 1 to communicate and exchange information with the regional coordination centre or the national coordination centre of another Member State or third country on condition that it regularly informs its own national coordination centre about the communication and information exchange.</p>		<p>3. In pre-defined cases as determined at national level the national coordination centre may authorise an authority (...) referred to in paragraph 1 to communicate and exchange information with the regional (...) authorities or the national coordination centre of another Member State or the competent authorities of a third country on condition that it regularly informs its own national coordination centre about (...) such communication and information exchange.</p>	<p>Agreement on Council text.</p>
<p><i>Article 17</i> <i>Cooperation of the Agency with third parties</i></p>			
<p>1. The Agency shall make use of existing information, capabilities and systems available in other EU agencies and entities, within the respective legal frameworks.</p>		<p>1. The Agency (...) may make use of existing information, capabilities and systems available in other (...) Union agencies, Union bodies and international organisations (...), within the respective legal frameworks.</p>	<p>Agreement on the following text: 1. The Agency (...) shall make use of existing information, capabilities and systems available in other (...) Union agencies, Union bodies and international organisations (...), within the respective legal frameworks.</p>

2. In accordance with paragraph 1, the Agency shall cooperate in particular with the following entities:		2. In accordance with paragraph 1, the Agency (...) may cooperate in particular with the following (...) Union agencies, Union bodies, and international organisations:	Agreement on the following text: 2. In accordance with paragraph 1, the Agency (...) shall cooperate in particular with the following (...) Union agencies, Union bodies, and international organisations:
	AM 93		
(a) European Police Office (Europol), the Maritime Analysis and Operations Centre – Narcotics (MAOC-N) and the Centre de Coordination pour la lutte antidrogue en Méditerranée (CeCLAD-M) in order to exchange information on cross-border crime to be included in the European Situational Picture;	(a) [...] the Maritime Analysis and Operations Centre – Narcotics (MAOC-N) and the Centre de Coordination pour la lutte antidrogue en Méditerranée (CeCLAD-M) in order to exchange information on cross-border crime to be included in the European Situational Picture;	(a) European Police Office (Europol) (...) in order to exchange information on cross-border crime to be included in the European Situational Picture;	Agreement on Council text.
	AM 94		
	<i>(aa) the European Police Office in order to exchange information on cross-border crime;</i>		EP agrees to drop its AM.
(b) the EU Satellite Centre, the European Maritime Safety Agency and the European Fisheries Control Agency when providing the common application of surveillance tools;			
	AM 95		
(c) the European Commission and EU agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;	(c) the European Commission, <i>the European External Action Service, the European Asylum Support Office</i> and <i>other</i> EU agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;	(c) the European Commission and (...) Union agencies which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;	Agreement on the following text: (c) the European Commission, <i>the European External Action Service and Union agencies and Union bodies, including the European Asylum Support Office</i> , which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture;

<p>(d) international organisations which can provide the Agency with information relevant for maintaining the European Situational Picture and the Common Pre-Frontier Intelligence Picture.</p>			
		<p>2a. In accordance with paragraph 1, the Agency may cooperate with the Maritime Analysis and Operations Centre - Narcotics (MAOC-N) and the Centre de Coordination pour la lutte antidrogue en Méditerranée (CeCLAD-M) in order to exchange information on cross-border crime to be included in the European Situational Picture.</p>	<p>Agreement on Council text.</p>
<p>3. Information between the Agency and the entities referred to in paragraph 2 shall be exchanged via the network referred to in Article 7 or other communication networks which fulfil the criteria of availability, confidentiality and integrity.</p>		<p>3. Information between the Agency and the (...) Union agencies, Union bodies and international organisations referred to in paragraphs 2 and 2a shall be exchanged via the communication network referred to in Article 7 or other communication networks which fulfil the criteria of availability, confidentiality and integrity.</p>	<p>Agreement on Council text.</p>

<p>4. The cooperation between the Agency and the entities referred to in paragraph 2 shall be regulated in working arrangements in accordance with Regulation (EC) No 2007/2004 and the respective legal basis of each entity. As regards the handling of classified information, these arrangements shall provide that the EU agencies and other entities concerned comply with equivalent security rules and standards as those applied by the Agency.</p>		<p>4. The cooperation between the Agency and the (...) Union agencies, Union bodies and international organisations referred to in paragraphs 2 and 2a shall be regulated in working arrangements in accordance with Regulation (EC) No 2007/2004 and the respective legal basis of (...) the Union agency, Union body or international organisation concerned. As regards the handling of classified information, these arrangements shall provide that the (...) Union agencies, Union bodies and international organisations (...) concerned comply with equivalent security rules and standards as those applied by the Agency.</p>	<p>Agreement on Council text.</p>
	<p>AM 96</p>		
<p>5. The agencies and centres referred to in paragraph 2 may use information received in the context of EUROSUR within the limits of their legal framework and in compliance with fundamental rights.</p>	<p>5. The agencies and centres referred to in paragraph 2 shall use information received in the context of EUROSUR only within the limits of their legal framework and in compliance with fundamental rights.</p>	<p>5. The Union agencies and Union bodies (...) referred to in paragraphs 2 and 2a may use information received in the context of EUROSUR within the limits of their legal framework and in compliance with fundamental rights, including data protection requirements.</p>	<p>Agreement on the following text:</p> <p>5. The Union agencies and Union bodies (...) referred to in paragraphs 2 and 2a shall use information received in the context of EUROSUR only within the limits of their legal framework and in compliance with fundamental rights, including data protection requirements.</p>

	AM 97		
	Article 17a Cooperation with Ireland and the United Kingdom	New Article 18a Cooperation with the UK and Ireland	Compromise proposed by the Presidency Unacceptable for EP.
	1. The exchange of information and cooperation with Ireland and the United Kingdom on protecting lives of migrants and preventing irregular migration and cross-border crime at the external borders may take place on the basis of bilateral or multilateral agreements between Ireland and the United Kingdom and one or several neighbouring Member States. The national coordination centres of the Member States shall be the contact point for the exchange of information between the communication network referred to in Article 7 and Ireland and the United Kingdom. Those agreements shall be notified to the Commission.	1. The exchange of information and cooperation with the United Kingdom and Ireland on preventing illegal migration and cross-border crime at the external borders may take place on the basis of bilateral or multilateral agreements between the United Kingdom and Ireland and one or several neighbouring Member States. These agreements may include one or several neighbouring third countries. The national coordination centres of the Member States shall be the contact point for the exchange of information with the corresponding authority of the United Kingdom and of Ireland within EUROSUR.	1. The exchange of information and cooperation with the United Kingdom and Ireland on preventing illegal migration and cross-border crime at the external borders may take place on the basis of bilateral or multilateral agreements between the United Kingdom and Ireland and one or several neighbouring Member States [These agreements may, where the neighbouring Member State(s) in question are in favour, include one or several neighbouring third countries.] The national coordination centres of the Member States shall be the contact point for the exchange of information with the corresponding authority of the United Kingdom and of Ireland within EUROSUR. Those agreements shall be notified to the Commission.
	2. The agreements referred to in paragraph 1 shall be limited to the following exchange of information between the national coordination centre of a Member State and Ireland and the United Kingdom:	2. The agreements referred to in paragraph 1 shall include provisions on financial costs arising from the participation of the United Kingdom and Ireland in the implementation of those agreements.	2. The agreements referred to in paragraph 1 shall be limited to the following exchange of information between the national coordination centre of a Member State and Ireland and the United Kingdom:

	<i>(a) information contained in the national situational picture of a Member State to the extent transmitted to the Agency for the purposes of the European situational picture and the Common pre-frontier intelligence picture,</i>		<i>(a) information contained in the national situational picture of a Member State to the extent transmitted to the Agency for the purposes of the European situational picture and the Common pre-frontier intelligence picture,</i>
	<i>(b) information collected by Ireland and the United Kingdom which is relevant for the purposes of the European situational picture and the Common pre-frontier intelligence picture,</i>		<i>(b) information collected by Ireland and the United Kingdom which is relevant for the purposes of the European situational picture and the Common pre-frontier intelligence picture,</i>
	<i>(c) information as laid down in Article 9(9).</i>		<i>(c) information as laid down in Article 9(9).</i>
	3. Prior approval of any other Member State, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1, shall be required before that information can be shared with Ireland and the United Kingdom under that agreement.	3. Prior approval of any other Member State or of the Agency, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1, shall be required before that information can be shared with the United Kingdom and Ireland under that agreement.	3. Prior approval of any other Member State or of the Agency, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1, shall be required before that information can be shared with the United Kingdom and Ireland under that agreement.
	4. Onward transmission or other communication of information to third countries or other third parties shall be prohibited.		4. Onward transmission or other communication of information <u>exchanged under this Article</u> to [third countries or other] third parties <u>not participating in the agreements referred to in paragraph 1</u> shall be prohibited.

	5. The agreements referred to in paragraph 1 shall provide that Ireland and the United Kingdom shall bear all financial costs arising from their participation in EUROSUR.		5. The agreements referred to in paragraph 1 shall include provisions on financial costs arising from the participation of the United Kingdom and Ireland in the implementation of those agreements.
<i>Article 18</i> <i>Cooperation with neighbouring third countries</i>			
	AM 98		
1. The exchange of information and cooperation with neighbouring third countries on preventing irregular migration and cross-border crime may take place on the basis of bilateral or multilateral agreements between one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information between the network referred to in Article 7 and the regional networks with neighbouring third countries.	1. The exchange of information and cooperation with neighbouring third countries on protecting lives of migrants and refugees and preventing irregular migration and cross-border crime shall take place on the basis of bilateral or multilateral agreements between the Union or one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information between the network referred to in Article 7 and the regional networks with neighbouring third countries. Member States shall inform the Commission of such agreements before these are concluded. Once they are concluded, they shall be notified to the Commission and the European Parliament.	1. The exchange of information and cooperation with neighbouring third countries on preventing (...) illegal migration and cross-border crime may take place on the basis of bilateral or multilateral agreements between one or several Member States and one or several neighbouring third countries concerned. The national coordination centres of the Member States shall be the contact point for the exchange of information (...) with neighbouring third countries within EUROSUR.	The Presidency compromise was discussed at the trilogue on 27.3.2013. EP insisted that MS shall consult the Commission and also notify their agreements to it. The Presidency will consult Member States again. 1. For the purposes of this Regulation, Member States may conclude bilateral or multilateral agreements with one or several neighbouring third countries concerned. (...). The national coordination centres of the Member States shall be the contact point for the exchange of information (...) with neighbouring third countries. Member States may consult the Commission as regards the compliance of such agreements with this Regulation before they are concluded. Once they are concluded, they shall be notified to the Commission, [the European Parliament and the Council].

	AM 99		
	<i>1a. Those agreements shall be in compliance with the relevant Union law, including the Charter of Fundamental Rights of the European Union, the relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951, obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.</i>		Agreement on the following compromise text at trilogue on 27.3.2013 : 1a. Those agreements shall be in compliance with the relevant Union and International Law on fundamental rights and on international protection, including the Charter of Fundamental Rights of the European Union and the Convention Relating to the Status of Refugees, in particular the principle of non-refoulement.
	AM 100		
	<i>1b. Any exchange of personal data with third countries shall be prohibited.</i>		At trilogue on 27.3.2013 EP could not accept the compromise by the Presidency. The Presidency suggests a new compromise: <u>1b. Any exchange of personal data with third countries participating in the Agreements referred to in paragraph 1 shall be carried out on an exceptional basis and in accordance with Directive 95/46/EC¹, Council Framework Decision 2008/977/JHA and the relevant national provisions on data protection.</u>

¹ OJ L 281, 23.11.1995, p. 31.

	AM 101		
2. Any exchange of information under paragraph 1 of this Article and under point (h) of Article 9(2), which a third country that could use this information to identify persons or groups of persons who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.	2. Any exchange of information under paragraph 1 of this Article and under point (h) of Article 9(2), which a third country could use to identify persons or groups of persons <i>who request access to international protection or</i> who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.	2. Any exchange of information under paragraph 1 of this Article and under point ((...) ga) of paragraph 2 of Article 9 (...) , which provides a third country (...) with information that could be used to identify persons or groups of persons who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.	Agreement on the following compromise: 2. Any exchange of information under paragraph 1 of this Article and under point (ga) of paragraph 2 of Article 9, which provides a third country with information that could be used to identify persons or groups of persons <i>whose request for access to international protection is under examination or</i> who are under a serious risk of being subjected to torture, inhuman and degrading treatment or punishment or any other violation of fundamental rights, shall be prohibited.
3. Any exchange of information under paragraph 1 of this Article and under point (h) of Article 9(2) shall be done in compliance with the conditions of the bilateral and multilateral agreements concluded with neighbouring third countries.		3. Any exchange of information under paragraph 1 of this Article and under point ((...) ga) of paragraph 2 of Article 9 (...) shall be done in compliance with the conditions of the bilateral and multilateral agreements concluded with neighbouring third countries.	Depends on final text of Article 9.

<p>4. Prior approval of any other Member State, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1 and of the networks referred to in point (h) of Article 9(2), shall be required before that information can be shared with any third country under that agreement or network.</p>		<p>4. Prior approval of any other Member State or of the Agency, which provided information in the context of EUROSUR and which is not part of any of the agreements referred to in paragraph 1 and of the networks referred to in point ((...) ga) of paragraph 2 of Article 9 (...), shall be required before that information can be shared with any third country under that agreement or network; The Member States and the Agency shall be bound by the request not to exchange that information with the third country concerned.</p>	<p>Agreement on Council text (reference to Article 9(2) depends on final text of Article 9).</p>
	<p>AM 102</p>		
	<p><i>4a. Any information provided by the Agency, in particular on the basis of risk analyses, information provided by liaison officers or on the basis of the use of surveillance tools defined in Article 12, may be shared with any third country under any agreement referred to in paragraph 1 or under any network referred to in point (h) of Article 9(2) only with prior approval of the Agency.</i></p>		<p>EP accepts to drop its AM following agreement on the previous paragraph.</p>

	AM 103		
	<i>4b. Onward transmission or other communication of information to third countries or other third parties shall be prohibited.</i>		Possible compromise suggested by COM: 4b. Onward transmission or other communication of information <u>exchanged under this Article</u> to other third countries or third parties shall be prohibited. Agreed at technical level on 9 April
	AM 104		
5. Any exchange of information with third countries of information derived from service for the common application of surveillance tools is subject to the legislation and rules governing those tools and systems as well as to the relevant provisions of Directive 95/46/EC and Regulation (EC) No 45/2001.	5. Any exchange [...] with third countries of information derived from the use of the common application of surveillance tools is subject to the legislation and rules governing those tools and systems [...].	5. Any exchange of information with third countries (...) acquired via (...) the common application of surveillance tools is subject to the legislation and rules governing those tools and systems as well as to the relevant provisions of Directive 95/46/EC, (...) Regulation (EC) No 45/2001 and Council Framework Decision 2008/977/JHA.	Agreement on Council text.

<p><i>Article 19 Handbook</i></p>			
	<p>AM 105</p>		
<p>The European Commission shall, in close cooperation with the Member States and the Agency, make available a Practical Handbook for the implementation and management of EUROSUR (hereinafter 'Handbook'), providing technical and operational guidelines, recommendations and best practices. The European Commission shall adopt the Handbook in the form of a recommendation.</p>	<p>The European Commission shall, in close cooperation with the Member States, the Agency, <i>the European Data Protection Supervisor (EDPS) and any other relevant Union body</i>, make <i>publicly</i> available a Practical Handbook for the implementation and management of EUROSUR (hereinafter 'Handbook'), providing technical and operational guidelines, recommendations and best practices. <i>This handbook shall include, inter alia, details on minimum standards and requirements for any agreements with third countries in accordance with Article 18(1a)</i>. The European Commission shall adopt the Handbook in the form of a recommendation.</p>		<p>Discussed at trilogue on 27.3.2013. EP could accept the compromise suggested by the Presidency but insisted that the Handbook should be made public:</p> <p>The European Commission shall, in close cooperation with the Member States, the Agency, <i>and any other relevant Union body</i>, make available a Practical Handbook for the implementation and management of EUROSUR (hereinafter 'Handbook'), providing technical and operational guidelines, recommendations and best practices <u>including on cooperation with third countries</u>; The European Commission shall adopt the Handbook in the form of a recommendation.</p>

Article 20 Monitoring and evaluation		Article 20 Monitoring and (...) reporting	
1. The Agency shall ensure that procedures are in place to monitor the technical and operational functioning of EUROSUR against the objectives of achieving an adequate situational awareness and reaction capability at the external borders.	AM 106	1. The Agency and the Member States concerned , shall ensure that procedures are in place to monitor the technical and operational functioning of EUROSUR against the objectives of achieving an adequate situational awareness and reaction capability at the external borders.	New compromise by the EP at trilogue on 27.3.2013 was unacceptable for Council so the following compromise was suggested at technical level on 9 th April: "For the purposes of this Regulation, the Agency and the Member States shall ensure that procedures are in place to monitor the technical and operational functioning of EUROSUR against the objectives of achieving an adequate situational awareness and reaction capability at the external borders, and the respect for fundamental rights [including the principle of non-refoulement]."
2. The Agency shall submit a report on the functioning of EUROSUR on 1 October 2015 and every two years thereafter.	AM 107	2. The Agency shall submit a report to the Commission and to the Council on the functioning of EUROSUR on 1 October 2015 and every two years thereafter.	At trilogue on 27.3.2013, agreement on the following compromise: 2. The Agency shall submit a report to the European Parliament and to the Council on the functioning of EUROSUR on 1 October 2015 and every two years thereafter.

	AM 108		
<p>3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council on 1 October 2016 and every four years thereafter. This evaluation shall include an examination of results achieved against objectives and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with fundamental rights. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.</p>	<p>3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council <i>by</i> 1 October 2016 and every four years thereafter. This evaluation shall include an examination of results achieved against objectives <i>a cost-efficiency evaluation</i> and an assessment of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with <i>and the impact on</i> fundamental rights, <i>including as regards the processing of personal data and access to international protection</i>. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.</p>	<p>3. The Commission shall provide an overall report on (...) EUROSUR to the European Parliament and the Council on 1 October 2016 and every four years thereafter. This report (...) shall include the (...) results achieved against objectives and an overall view (...) of the continuing validity of the underlying rationale, the application of this Regulation in the Member States and by the Agency, and the compliance with fundamental rights. That report (...) shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.</p>	<p>Agreement on the following compromise at trilogue on 27.3.2013:</p> <p>3. The Commission shall provide an overall evaluation of EUROSUR to the European Parliament and the Council on 1 October 2016 and every four years thereafter. This evaluation shall include an assessment of the (...) results achieved against objectives, (...) of the continuing validity of the underlying rationale, of the application of this Regulation in the Member States and by the Agency and of the compliance with and impact on fundamental rights and a cost benefit evaluation. That evaluation shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.</p>
<p>4. Member States shall provide the Agency with the information necessary to draft the report referred to in paragraph 2. The Agency shall provide the Commission with the information necessary to produce the evaluation referred to in paragraph 3.</p>		<p>4. Member States shall provide the Agency with the information necessary to draft the report referred to in paragraph 2. The Agency shall provide the Commission with the information necessary to produce the (...) report referred to in paragraph 3.</p>	<p>Agreement on Commission text at technical level on 9th April</p>

		Article 20a Amendments to Regulation (EC) No 2007/2004	Agreement on the following text on Article 20a(1): Article 20a Amendments to Regulation (EC) No 2007/2004
		Regulation (EC) 2007/2004 is hereby amended as follows:	Regulation (EC) 2007/2004 is hereby amended as follows:
		<p>1. In Article 2(1), point (i) is replaced by the following:</p> <p>"(i) provide the necessary assistance to the development and operation of a European border surveillance system and, as appropriate, to the development of a common information sharing environment, including interoperability of systems, notably through establishing, maintaining and coordinating the EUROSUR framework in accordance with Regulation XXX of the European Parliament and the Council establishing the European Border Surveillance System (EUROSUR)."</p>	<p>1. In Article 2(1), point (i) is replaced by the following:</p> <p>"(i) provide the necessary assistance to the development and operation of a European border surveillance system and, as appropriate, to the development of a common information sharing environment, including interoperability of systems, notably through establishing, maintaining and coordinating the EUROSUR framework in accordance with Regulation XXX of the European Parliament and the Council establishing the European Border Surveillance System (EUROSUR)."</p>

		<p>2. The following new Article 11ca is inserted:</p> <p style="text-align: center;">"Article 11ca Processing of personal data in the framework of EUROSUR</p> <p>The Agency may process personal data as set out in Article 12a(2) of Regulation XXX of the European Parliament and the Council establishing the European Border Surveillance System (EUROSUR). This Article shall be applied in accordance with the measures referred to in Article 11a. In particular, the processing of such data shall respect the principles of necessity and proportionality and onward transmission or other communication of such personal data processed by the Agency to third countries shall be prohibited."</p>	<p>Agreement on Council text with one slight change at trilogue on 27.3.2013.</p> <p>2. The following new Article 11ca is inserted:</p> <p style="text-align: center;">"Article 11ca Processing of personal data in the framework of EUROSUR</p> <p>The Agency may process personal data as set out in Article 12a(2) of Regulation XXX of the European Parliament and the Council establishing the European Border Surveillance System (EUROSUR), <i>which</i> shall be applied in accordance with the measures referred to in Article 11a. In particular, the processing of such data shall respect the principles of necessity and proportionality and onward transmission or other communication of such personal data processed by the Agency to third countries shall be prohibited."</p>
<i>Article 21</i>			
<i>Entry into force and applicability</i>			
1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.			
2. This Regulation shall apply from 1 October 2013.			

	AM 109		
3. Article 5(1) shall apply to the Member States located at the southern sea and eastern land external borders of the Union (Bulgaria, Cyprus, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovak Republic, Slovenia and Spain) from 1 October 2013.	<i>deleted</i>	3. Article 5(1) ¹ shall apply to the Member States located at the southern (...) and eastern (...) external borders (Bulgaria, Cyprus, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovak Republic, Slovenia and Spain) from 1 October 2013.	Agreement on Council text at trilogue on 30.1.2013.
	AM 110		
4. Article 5(1) shall apply to the remaining Member States with land and sea external borders (Belgium, Germany, Netherlands and Sweden) as from 1 October 2014.	<i>deleted</i>	4. Article 5(1) shall apply to the remaining Member States (...) as from 1 October 2014.	Agreement on Council text at trilogue on 30.1.2013.
This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.			

¹ As regards Croatia the Presidency in consultation with the CLS and the Commission suggests the following:

- 1) If the accession of Croatia takes place before the adoption of the Eurosur regulation, then Croatia can be listed among the Member States in Article 21(3).
- 2) However, if the accession of Croatia will not take place before the adoption of the Eurosur regulation, a recital should be introduced which would be along the lines:
"As regards Croatia, this Regulation constitutes a provision of the Schengen acquis within the meaning of article 4 (1) of the Act of accession. Given that Croatia is located at the southern external border of the EU, Croatia should be included among the Member States referred to in article 21(3)."
In addition, based on the Treaty of accession, the Commission would propose a technical adaptation of Article 21 (3) to include Croatia among the Member States in Article 21 (3).

Done at Brussels, <i>For the European Parliament</i> <i>The President</i>			
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<p style="text-align: center;"><u>Annex</u></p> <p>The following principles shall be taken into account when setting, operating and maintaining the different components of the EUROSUR framework:</p>			
<p>(a) <i>Principle of communities of interest:</i> The national coordination centres and the Agency shall form particular communities of interest for sharing information and cooperation in the framework of EUROSUR. Communities of interest shall be used to organise different national coordination centres and the Agency to exchange information in pursuit of shared objectives, requirements and interests.</p>		<p>(a) <i>Principle of communities of interest:</i> The national coordination centres and the Agency shall form particular communities of interest for sharing information and cooperation in the framework of EUROSUR. Communities of interest shall be used to organise different national coordination centres and the Agency to exchange information on a need to know and a responsibility to share basis in pursuit of shared objectives, requirements and interests.</p>	<p>Agreement on Commission text.</p>

	AM 111		
<p>(b) <i>Principles of coherent management and of using existing structures:</i> The Agency shall ensure the coherence between the different components of the EUROSUR framework, including providing guidance and support to the national coordination centres and promoting the interoperability of information and technology. To the extent possible, the EUROSUR framework shall make use of existing systems and capabilities. In this context, EUROSUR shall be established in full compatibility with the initiative for a Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), thereby contributing to and benefit from a coordinated and cost-efficient approach for cross-sectoral information exchange in the Union.</p>	<p>(b) Principles of coherent management and of using existing structures: The Agency shall ensure the coherence between the different components of the EUROSUR framework, including providing guidance and support to the national coordination centres and promoting the interoperability of information and technology. To the extent possible, the EUROSUR framework shall make use of existing systems and capabilities, <i>in order to optimise the use of the Union budget and to avoid the creation of redundancies</i>. In this context, EUROSUR shall be established in full compatibility with the initiative for a Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), thereby contributing to and benefit from a coordinated and cost-efficient approach for cross-sectoral information exchange in the Union.</p>		<p>Agreement on the following text:</p> <p>(b) Principles of coherent management and of using existing structures: The Agency shall ensure the coherence between the different components of the EUROSUR framework, including providing guidance and support to the national coordination centres and promoting the interoperability of information and technology. To the extent possible, the EUROSUR framework shall make use of existing systems and capabilities, <i>in order to optimise the use of the Union budget and to avoid duplication</i>. In this context, EUROSUR shall be established in full compatibility with the initiative for a Common Information Sharing Environment for the surveillance of the EU maritime domain (CISE), thereby contributing to and benefit from a coordinated and cost-efficient approach for cross-sectoral information exchange in the Union.</p>

<p>(c) <i>Principles of information sharing and of information assurance:</i> Information made available in the EUROSUR framework shall be available to all national coordination centres and the Agency, unless specific restrictions have been laid down or agreed upon. The national coordination centres shall guarantee the availability, confidentiality and integrity of the information to be exchanged at national and European level. The Agency shall guarantee the availability, confidentiality and integrity of the information to be exchanged at European level.</p>		<p>(c) <i>Principles of information sharing and of information assurance:</i> Information made available in the EUROSUR framework shall be available to all national coordination centres and the Agency, unless specific restrictions have been laid down or agreed upon. The national coordination centres shall guarantee the availability, confidentiality and integrity of the information to be exchanged at national, (...) European and international level. The Agency shall guarantee the availability, confidentiality and integrity of the information to be exchanged at European and international level.</p>	<p>Agreement on Council text (subject to agreement on Article 18).</p>
<p>(d) <i>Principles of service-orientation and of standardisation:</i> The different EUROSUR capabilities shall be implemented using a service-oriented approach. The Agency shall ensure that, to the extent possible, the EUROSUR framework is based on internationally agreed standards.</p>			
<p>(e) <i>Principle of flexibility:</i> Organisation, information and technology shall be designed to enable the EUROSUR stakeholders to react to changing situations in a flexible and structured manner.</p>			