

COUNCIL OF THE EUROPEAN UNION Brussels, 17 January 2014 (OR. en)

5397/14

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LIMITE

FRONT 12 CODEC 106 COMIX 31

NOTE	
From:	Presidency
To:	Delegations
No. Cion doc.:	8521/13 FRONT 38 CODEC 853 COMIX 246
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

Delegations will find attached the four-column text on the above draft Regulation with the results of the third technical meeting with the European Parliament (which took place on 15 January 2014) and Presidency draft compromise suggestions regarding Articles 9- 11. Furthermore, following the discussion at the JHA Counsellors meeting on 16 January 2014, the Presidency submits certain amended draft compromise proposals regarding Articles 4(1) and 4(3). The rest of the fourth column text remains as it was set out in doc. 5292/14.

The intention of the Presidency is to focus on the examination of Articles 4-11 at the JHA Counsellors meeting on 20 January 2014.

Proposal for a Regulation of the European Parliament and of the Council establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

COMMISSION PROPOSAL	EUROPEAN PARLIAMENT	DRAFT COUNCIL POSITION (as	COMMENTS AND COMPROMISE
	POSITION (LIBE VOTE 9.12.2013)	results from the Coreper meeting on 13.12.2013)	TEXT
THE EUROPEAN PARLIAMENT		THE EUROPEAN PARLIAMENT	Identical.
AND THE COUNCIL OF THE		AND THE COUNCIL OF THE	
EUROPEAN UNION,		EUROPEAN UNION,	
Having regard to the Treaty on the		Having regard to the Treaty on the	
Functioning of the European Union,		Functioning of the European Union,	
and in particular Article 77(2)(d)		and in particular Article 77(2)(d)	
thereof,		thereof,	
Having regard to the proposal from		Having regard to the proposal from	
the European Commission,		the European Commission,	
After transmission of the draft		After transmission of the draft	
legislative act to the national		legislative act to the national	
Parliaments,		Parliaments,	
Acting in accordance with the		Acting in accordance with the	
ordinary legislative procedure,		ordinary legislative procedure,	
Whereas:		Whereas:	
	AM 1		
(1) The objective of Union policy	(1) The objective of Union policy	(1) The objective of Union policy	PRES draft compromise:
in the field of the Union external	in the field of the Union external	in the field of the Union external	(1) The objective of Union policy
borders is to ensure the efficient	borders is to ensure the efficient	borders is to ensure the efficient	in the field of the Union external
monitoring of the crossing of	monitoring of the crossing of	monitoring of the crossing of	borders is to ensure the efficient
external borders including through	external borders including through	external borders including through	monitoring of the crossing of external
border surveillance. The purpose of	border surveillance, in which the	border surveillance. The purpose of	borders including through border
border surveillance is to prevent	saving of lives and the protection of	border surveillance is to prevent	surveillance, while contributing to



unauthorised border crossings, to counter cross-border criminality and to apprehend or take other measures against those persons who have crossed the border in an irregular manner. Border surveillance should be effective in preventing and discouraging persons from circumventing the checks at border crossing points. To this end, border surveillance is not limited to the detection of attempts at irregular border crossing but equally extends to steps such as intercepting ships suspected of trying to gain entry to the Union without submitting to border checks, as well as arrangements intended to address situations such as search and rescue that may arise during a border surveillance operation at sea and arrangements intended to bring such an operation to a successful conclusion.

fundamental rights should be a priority. The purpose of border surveillance is to prevent unauthorised border crossings, to counter cross-border criminality and to apprehend or take other measures against those persons who have crossed the border in an irregular manner. Border surveillance should be effective in preventing and discouraging persons from circumventing the checks at border crossing points. To this end, border surveillance is not limited to the detection of attempts at irregular border crossing but equally extends to steps such as intercepting ships suspected of trying to gain entry to the Union without submitting to border checks, as well as arrangements intended to address situations such as search and rescue that may arise during a border surveillance operation at sea and arrangements intended to bring such an operation to a successful conclusion.

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ensuring the protection and saving of lives. The purpose of border surveillance is to prevent unauthorised border crossings, to counter cross-border criminality and to apprehend or take other measures against those persons who have crossed the border in an irregular manner. Border surveillance should be effective in preventing and discouraging persons from circumventing the checks at border crossing points. To this end, border surveillance is not limited to the detection of attempts at irregular border crossing but equally extends to steps such as intercepting ships suspected of trying to gain entry to the Union without submitting to border checks, as well as arrangements intended to address situations such as search and rescue that may arise during a border surveillance operation at sea and arrangements intended to bring such an operation to a successful conclusion.

AM 2	
(1a) Article 80 of the Treaty on the	PRES draft compromise on AM 2, 3,
Functioning of the European Union	12 and 15:
(TFEU) provides that the policies of	(1a) When disembarking
the Union set out in Chapter 2 on	intercepted or rescued persons in a
border checks, asylum and	Member State, the Agency and its
immigration and their	Member States should fully respect
implementation are to be governed	the principle of solidarity and fair
by the principle of solidarity and	responsibility sharing in accordance
fair sharing of responsibility,	with Article 80 of the Treaty on the
including its financial implications,	Functioning of the European Union
between the Member States, and	(TFEU).
that, whenever necessary, Union	According to that article, the policies
acts under that Chapter are to	of the Union set out in Chapter 2 on
contain appropriate measures to	border checks, asylum and
give effect to that principle.	immigration and their
	implementation are to be governed
	by the principle of solidarity and fair
	sharing of responsibility, including
	its financial implications, between
	the Member States, and that,
	whenever necessary, Union acts
	under that Chapter are to contain
	appropriate measures to give effect
	to that principle to foster and
	promote burden sharing. These
	measures may include a system of
	relocation of migrants and
	applicants for international
	protection on a voluntary basis.

	(1a) The scope of application of this Regulation is limited to border surveillance operations carried out by Member States at their sea external borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ('the Agency') established by Council Regulation (EC) No 2007/2004 of 26 October 2004 <sup>1</sup> . Investigative and punitive measures are dealt with under national criminal law and in the existing instruments of mutual legal assistance in the field of judicial cooperation in criminal matters in the Union.	
AM 3		
(1b) The lack of a Union burden sharing system contributes to the overburdening of the Member States bordering the Mediterranean Sea.		See PRES draft compromise on AM 2.

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OJ L 349, 25.11.2004, p. 1.

	AM 4		
(2) The European Agency for the	(2) The European Agency for the	(2) The [] Agency [] is	Proposal of the technical meeting to
Management of Operational	Management of Operational	responsible for the coordination of	accept the Council text.
Cooperation at the External Borders	Cooperation at the External Borders	operational cooperation between	
of the Member States of the	of the Member States of the	Member States in the field of	
European Union ('the Agency')	European Union ('the Agency')	management of the external borders,	
established by Council Regulation	established by Council Regulation	including as regards border	
(EC) No 2007/2004 of 26 October	(EC) No 2007/2004 of 26 October	surveillance. The Agency is also	
$2004^2$ is responsible for the	$2004^{13}$ is responsible for the	responsible to assist Member States	
coordination of operational	coordination of operational	in circumstances requiring increased	
cooperation between Member States	cooperation between Member States	technical assistance at the external	
in the field of management of the	in the field of management of the	borders, taking into account that	
external borders, including as regards	external borders, including as regards	some situations may involve	
border surveillance. The Agency is	border surveillance. The Agency is	humanitarian emergencies and rescue	
also responsible to assist Member	also responsible to assist Member	at sea. Specific rules with regard to	
States in circumstances requiring	States in circumstances requiring	border surveillance activities carried	
increased technical assistance at the	increased technical assistance at the	out by maritime, <i>land</i> and aerial units	
external borders, taking into account	external borders, taking into account	of one Member State at the sea	
that some situations may involve	that some situations [] involve	border of other Member States or on	
humanitarian emergencies and rescue	humanitarian emergencies and rescue	the high seas in the context of	
at sea. Specific rules with regard to	at sea. Specific rules with regard to	operational cooperation coordinated	
border surveillance activities carried	border surveillance activities carried	by the Agency are necessary to	
out by maritime and aerial units of	out by maritime and aerial units of	further strengthen such cooperation.	
one Member State at the sea border	one Member State at the sea border		
of other Member States or on the	of other Member States or on the		
high seas in the context of	high seas in the context of		
operational cooperation coordinated	operational cooperation coordinated		
by the Agency are necessary to	by the Agency are necessary to		
further strengthen such cooperation.	further strengthen such cooperation.		

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OJ L 349, 25.11.2004, p. 1.

	AM 5 (2a) Cooperation with neighbouring third countries is crucial to prevent unauthorised border crossings, to counter cross- border criminality and to make search and rescue operations more efficient. In accordance with Regulation (EC) No 2007/2004 and insofar as the full respect for the fundamental rights of migrants is ensured, the Agency may cooperate with the competent authorities of third countries, in particular as regards risk analysis and training, and should facilitate operational cooperation between Member States		PRES proposes to accept EP text.
	and third countries. AM 6		
<ul> <li>(3) The establishment of the European Border Surveillance</li> <li>System (EUROSUR) established by Regulation (EU) No [/] of the European Parliament and of the Council of [] should strengthen the information exchange and operational cooperation between Member States and with the Agency.</li> </ul>	AM 6 (3) The establishment of the European Border Surveillance System (EUROSUR) established by Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 should strengthen the information exchange and operational cooperation between Member States and with the Agency.	<ul> <li>(3) The [] European Border Surveillance System (EUROSUR) established by Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013<sup>3</sup> should strengthen the information exchange and operational cooperation between Member States and with the Agency.</li> </ul>	PRES compromise text: (3) The European Border Surveillance System (EUROSUR) established by Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 <sup>4</sup> should strengthen the information exchange and operational cooperation between Member States

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This ensures that the situational awareness and reaction capability of Member States improves       This ensures that the situational awareness and reaction capability of Member States improves       and with the Agency. This ensures that the situational awareness and reaction capability of Member States improves         Considerably, also with the support of the Agency, for the purposes of detecting and preventing irregular migration, for combating cross-border crime, including human trafficking, and for contributing to protect and save the lives of migrants at their external borders. When coordinating border surveillance operations, the Agency should provide Member States with information and analysis concerning these operations.       This ensures that the situational awareness and reaction capability of Member States improves         Nember States improves       considerably, also with the support of the Agency, for the purposes of detecting and preventing irregular migration, for combating cross-border crime and [] contributing to protect and save the lives of migrants at their external borders. When coordinating border surveillance operations, the Agency should provide Member States with information and analysis concerning these operations. Member States and the Agency should introduce in <i>EUROSUR all relevant information collected during these operations.</i> (3a) This Regulation replaces       (3a) This Regulation replaces       Proposal of the technical meeting to accept the Council text.         Council Decision 2010/252/EU of 26 Agency which was annualled by the Agency which was annualled by the       Agency which was annualled by the       Proposal of the technical meeting to accept the Council text.				
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Image: Constant of the sea external borders in the context of operation coordinated by the       Image: Constant of the sea external cooperation coordinated by the		Ŭ		
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Council Decision 2010/252/EU of 26 April 2010 supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of operational cooperation coordinated by theaccept the Council text.			(3a) This Regulation replaces	Proposal of the technical meeting to
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borders in the context of operational cooperation coordinated by the			Schengen Borders Code as regards	
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cooperation coordinated by the			•	
Agency which was annulled by the			cooperation coordinated by the	
			Agency which was annulled by the	
Court of Justice of the European			Court of Justice of the European	
Union ('the Court') by its judgment			• • -	
of 5 September 2012 in case C-				
355/10.			· 1	

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		(3b) In that judgment, the Court maintained the effects of Decision 2010/252/EU until the entry into force of new rules. Therefore, as of the day of entry into force of this Regulation, the said Decision should cease to produce effect.	Proposal of the technical meeting to accept the Council text.
	AM 7		
(4) During border surveillance	(4) During border surveillance	(4) During border surveillance	As regards EP text, PRES proposes to
operations, Member States and the	operations, Member States and the	operations at sea, Member States	keep the reference to the UN
Agency should respect their	Agency should respect their	[] should respect their <i>respective</i>	Convention on the Rights of the
obligations under the United Nations	obligations, <i>including the principle</i>	obligations under International Law,	Child. The reference to the principle
Convention on the Law of the Sea,	of non-refoulement, under the	in particular the United Nations	of non-refoulement is already
the International Convention for the	United Nations Convention on the	Convention on the Law of the Sea,	mentioned in Recital (5a) and
Safety of Life at Sea, the	Law of the Sea, the International	the International Convention for the	Article 4.
International Convention on	Convention for the Safety of Life at	Safety of Life at Sea, the	
Maritime Search and Rescue, the	Sea, the International Convention on	International Convention on	
United Nations Convention against	Maritime Search and Rescue, the	Maritime Search and Rescue, the	
Transnational Organized Crime and	United Nations Convention against	United Nations Convention against	
its Protocol against the Smuggling of	Transnational Organized Crime and	Transnational Organized Crime and	
Migrants by Land, Sea and Air, the	its Protocol against the Smuggling of	its Protocol against the Smuggling of	
Convention relating to the Status of	Migrants by Land, Sea and Air, the	Migrants by Land, Sea and Air, the	
Refugees, the European Convention	Convention relating to the Status of	Convention relating to the Status of	
for the Protection of Human Rights	Refugees, the European Convention	Refugees, the European Convention	
and Fundamental Freedoms, the	for the Protection of Human Rights	for the Protection of Human Rights	
International Covenant on Civil and	and Fundamental Freedoms, the	and Fundamental Freedoms, the	
Political Rights, the United Nations	International Covenant on Civil and	International Covenant on Civil and	
Convention against Torture and	Political Rights, the United Nations	Political Rights, the United Nations	
Other Cruel, Inhuman or Degrading	Convention against Torture and	Convention against Torture and	
Treatment or Punishment and other	Other Cruel, Inhuman or Degrading	Other Cruel, Inhuman or Degrading	
relevant international instruments.	Treatment or Punishment, <i>the UN</i>	Treatment or Punishment and other	
	Convention on the Right of the	relevant international instruments.	

	<i>Child</i> and other relevant international		
	instruments.	(4a) When coordinating border	
		surveillance operations at sea, the	
		Agency should fulfil its tasks in full	
		compliance with the relevant Union	
		law, including the Charter of	
		Fundamental Rights of the	
		European Union ('the Charter of	
		Fundamental Rights') and relevant	
		international law, in particular as	
		referred to in Recital (4).	
	AM 8		
(5) In accordance with Regulation	(5) In accordance with Regulation	(5) In accordance with Regulation	Proposal of the technical meeting:
(EC) No 562/2006 of the European	(EC) No 562/2006 of the European	(EC) No 562/2006 of the European	(5) In accordance with Regulation
Parliament and of the Council of 15	Parliament and of the Council of 15	Parliament and of the Council of 15	(EC) No 562/2006 of the European
March 2006 establishing a	March 2006 establishing a	March 2006 establishing a	Parliament and of the Council of 15
Community Code on the rules	Community Code on the rules	Community Code on the rules	March 2006 establishing a
governing the movement of persons	governing the movement of persons	governing the movement of persons	Community Code on the rules
across borders (Schengen Borders	across borders (Schengen Borders	across borders (Schengen Borders	governing the movement of persons
Code) <sup>5</sup> and general principles of	Code) and general principles of	Code) <sup>8</sup> and general principles of	across borders (Schengen Borders
Union law, any measure taken in the	Union law, any measure taken in the	Union law, any measure taken in the	Code) <sup>10</sup> and general principles of
course of a surveillance operation	course of a surveillance operation	course of a surveillance operation	Union law, any measure taken in the
should be proportionate to the	should be proportionate to the	should be proportionate to the	course of a surveillance operation
objectives pursued, non-	objectives pursued, non-	objectives pursued, non-	should be proportionate to the
discriminatory and it should fully	discriminatory and it should fully	discriminatory and it should fully	objectives pursued, non-
respect human dignity, fundamental	respect human dignity, fundamental	respect human dignity, fundamental	discriminatory and it should fully
rights and the rights of refugees and	rights, [] the rights of refugees and	rights and the rights of refugees and	respect human dignity, fundamental

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OJ L 105, 13.4.2006, p. 1. OJ L 105, 13.4.2006, p. 1. OJ L 105, 13.4.2006, p. 1.

asylum seekers, including the	asylum seekers <i>and</i> the principle of	asylum seekers, including the	rights and the rights of refugees and
principle of <i>non-refoulement</i> .	non-refoulement. Member States and	principle of <i>non-refoulement</i> .	asylum seekers, including the
Member States and the Agency are	the Agency are bound by the	Member States and the Agency are	principle of <i>non-refoulement</i> .
•••		•••	·
bound by the provisions of the	provisions of the asylum acquis, and	bound by the provisions of the	Member States and the Agency are
asylum <i>acquis</i> , and in particular of	in particular of <i>Directive</i>	asylum <i>acquis</i> , and in particular of	bound by the provisions of the
Council Directive 2005/85/EC of 1	2013/32/EU of the European	Directive 2013/32/EU of the	asylum <i>acquis</i> , and in particular of
December 2005 on minimum	<b>Parliament and of the Council</b> <sup>7</sup> with	European Parliament and of the	Directive 2013/32/EU of the
standards on procedures in Member	regard to applications for	Council of 26 June 2013 on	European Parliament and of the
States for granting and withdrawing	<i>international protection</i> made in the	common procedures for granting	<i>Council</i> <sup>11</sup> with regard to applications
refugee status <sup>6</sup> with regard to	territory, including at the border, in	and withdrawing international	for <i>international protection</i> made in
applications for asylum made in the	the territorial waters or in the transit	<i>protection (recast)</i> <sup>9</sup> with regard to	the territory, including at the border,
territory, including at the border or in	zones of Member States.	applications for asylum made in the	in the territorial waters or in the
the transit zones of Member States.		territory, including at the border or in	transit zones of Member States.
		the transit zones of Member States.	
	AM 9		
	(5a) This Regulation should be		PRES <u>new</u> draft compromise:
	applied in full compliance with the		(5a) This Regulation should be
	principle of non-refoulement,		applied in full compliance with the
	according to which no one may be		principle of non-refoulement as
	expelled, removed or extradited to,		defined in the [] Charter and as
	or forced to enter, a country where		interpreted by the case law of the
	there is a real risk that he or she		Court and of the European Court of
	would be subjected to the death		Human Rights.
	penalty, torture or other inhuman or		In accordance with that principle,
	degrading treatment or punishment		no person may be expelled, removed

<sup>&</sup>lt;sup>6</sup> OJ L 326, 13.12.2005, p. 13.

<sup>&</sup>lt;sup>7</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

<sup>&</sup>lt;sup>9</sup> OJ L *180*, *29.6.2013*, p. *60*.

<sup>&</sup>lt;sup>11</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

	or any serious violations of their human rights, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group or political opinion; or from which there is a serious risk of such an expulsion, removal or extradition to another country.		or extradited to, or forced to enter, a country where there is a serious risk that he or she would be subjected to the death penalty, torture, <u>persecution</u> or other inhuman or degrading treatment or punishment, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group or political opinion; or from which there is a serious risk of such an expulsion, removal or extradition to another country in contravention of [] principle <u>of non-refoulement.</u>
	AM 10		PRES considers this recital to be
	(5b) The possible existence of an arrangement between a Member		covered by Recital 6.
	State and a third country cannot		
	absolve Member States from their		
	international obligations under		
	international and Union law under		
	the principle of non-refoulement.		
	AM 11		
(6) The possible existence of an	(6) The possible existence of an	(6) The possible existence of an	PRES invites M-S to further consider
arrangement between a Member	arrangement between a Member	arrangement between a Member	the last par. of the EP Amendment.
State and a third country cannot absolve Member States from those	State and a third country cannot absolve Member States from <i>their</i>	State and a third country cannot absolve Member States from those	
	obligations <i>under international and</i>		
obligations whenever they are aware or ought to be aware that systemic	Union law, in particular as regards	obligations whenever they are aware or ought to be aware that systemic	
deficiencies in the asylum procedure	compliance with the principle of	deficiencies in the asylum procedure	
deficiencies in the asylum procedure	compliance with the principle of	deficiencies in the asylum procedure	

and in the reception conditions of	<i>non-refoulement</i> , whenever they are	and in the reception conditions of	
asylum seekers in that third country	aware or ought to be aware that []	asylum seekers in that third country	
amount to substantial grounds for	deficiencies in the asylum procedure	amount to substantial grounds for	
believing that the asylum seeker	and in the reception conditions of	believing that the asylum seeker	
would face a real risk of being	asylum seekers in that third country	would face a real risk of being	
subjected to inhuman or degrading	do not make it possible to conduct	subjected to inhuman or degrading	
treatment or where they are aware or	an individual, fair and effective	treatment or where they are aware or	
ought to be aware that this third	assessment or where they are aware	ought to be aware that this third	
country is engaged in practices in	or ought to be aware that this third	country is engaged in practices in	
contravention of the principle of non-	country is engaged in practices in	contravention of the principle of non-	
refoulement.	contravention of the principle of non-	refoulement.	
	refoulement. Units deployed by	·	
	Member States or the Agency		
	should also be guided by the		
	provisions of Union law and		
	international law in instances where		
	operations take place in the		
	territorial waters of third countries		
	and those countries apply other		
	rules.		
	AM 12		
	(6a) In the spirit of Article 80 of		See PRES draft compromise on
	the TFEU, application of		AM 2.
	Regulation (EU) No 604/2013 of the		
	European Parliament and of the		
	Council <sup>12</sup> should not prevent		
	Member States from applying, on a		
	voluntary basis, a system of		

<sup>&</sup>lt;sup>12</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

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	relocation of migrants and asylum seekers.		
	AM 13		
(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found.	(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers, to render assistance <i>proactively and without</i> <i>delay</i> to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found. Accordingly, no measures, including criminal procedures and sanctions, should be taken deterring ship masters from rendering assistance to persons in distress at	(7) During a border surveillance operation at sea, a situation may occur where it will be necessary to render assistance to persons found in distress. In accordance with international law, every State must require the master of a <i>vessel</i> flying its flag, in so far as he can do so without serious danger to the <i>vessel</i> , the crew or the passengers, to render assistance to any person found at sea in danger of being lost and to proceed with all possible speed to the rescue of persons in distress. Such assistance should be provided regardless of the nationality or status of the persons to be assisted or of the circumstances in which they are found.	As regards the first part of the amendment in EP text, PRES suggests to keep the words "and without delay" but not the word "proactively". As regards the second part of the amendment in EP text, PRES suggests the following draft compromise: <u>The shipmaster and crew should not</u> <u>face criminal sanctions for the sole</u> <u>reason of having rescued persons in</u> <u>distress at sea and brought them to a</u> <u>place of safety.</u>
	sea.		

<ul> <li>(8) That obligation should be carried out by Member States in accordance with the applicable provisions of international instruments governing search and rescue situations and in accordance with the requirements concerning the protection of fundamental rights. This Regulation should not affect the responsibilities of search and rescue authorities, including for ensuring that coordination and cooperation is carried out in such a way that the persons rescued can be delivered to a</li> </ul>		<ul> <li>(8) That obligation should be carried out by Member States in accordance with the applicable provisions of international instruments governing search and rescue situations and in accordance with the requirements concerning the protection of fundamental rights. This Regulation should not affect the responsibilities of search and rescue authorities, including for ensuring that coordination and cooperation is carried out in such a way that the persons rescued can be delivered to</li> </ul>	Proposal of the technical meeting to accept the Council text.
port or a place of safety.		[] a place of safety.	
	AM 14		
	(8a) Clear rules should ensure that, when persons in distress at sea are detected, the responsible Rescue Coordination Centre is easily and quickly identified. In case of doubt, e.g. when a boat is floating between different search and rescue regions, the International Coordination Centre should appoint the responsible Rescue Coordination Centre.		PRES suggests not to accept AM 14.
		(8a) The conduct of sea operations in the search and rescue regions of a third country should be subject to establishing communication channels with the search and rescue	PRES draft compromise: (8a) When the operational area of a sea operation includes the search and rescue region of a third country, the host Member State should seek

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	AM 15	authorities of that third country when planning a sea operation thereby ensuring that those authorities would be able to respond to search and rescue cases developing within their search and rescue region.	<u>to establish</u> communication channels with the search and rescue authorities of that third country when planning a sea operation thereby ensuring that those authorities would be able to respond to search and rescue cases developing within their search and rescue region.
	(8b) When disembarking intercepted or rescued persons in a Member State, the Agency and its Member States should fully respect the principle of solidarity and fair responsibility sharing in accordance with Article 80 of the TFEU.		See PRES draft compromise on AM 2.
<ul> <li>(9) Pursuant to Regulation (EC)</li> <li>No 2007/2004, border surveillance operations coordinated by the</li> <li>Agency are conducted in accordance with an operational plan.</li> <li>Accordingly, as regards sea</li> </ul>	<i>AM 16</i> (9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an operational plan. Accordingly, as regards sea	<ul> <li>(9) Pursuant to Regulation (EC) No 2007/2004, border surveillance operations coordinated by the Agency are conducted in accordance with an operational plan. Accordingly, as regards sea</li> </ul>	PRES suggests to add the following at the end of the Council text: The operational plan should include procedures ensuring that persons with international protection needs, victims of human trafficking,
Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation or pilot project takes place, including references to international and Union law, regarding	Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation, pilot project <i>or rapid</i> <i>intervention</i> takes place, including references to international and Union	Accordingly, as regards sea operations, the operational plan should include specific information on the application of the relevant jurisdiction and legislation in the geographical area where the joint operation, [] pilot project or rapid intervention takes place, including references to international and Union	unaccompanied minors and other vulnerable persons are identified during the operation and provided with appropriate assistance, including access to international protection.

interception, rescue at sea and disembarkation. In turn, this Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency.	law, regarding interception, rescue at sea and disembarkation. It should also include rules and procedures which ensure that persons with international protection needs, victims of human trafficking, unaccompanied minors and other vulnerable persons are identified during the operation and provided with appropriate assistance, including access to international protection. In turn, this Regulation governs the issues of interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency in accordance with international law and fundamental rights.	law, regarding interception, rescue at sea and disembarkation.[] The operational plan should be established in accordance with the provisions of this Regulation governing [] interception, rescue at sea and disembarkation in the context of sea border surveillance operations coordinated by the Agency and having regard to the particular circumstances of the operation concerned.	
<ul> <li>(10) The practice under Regulation</li> <li>(EC) No 2007/2004 is that for each sea operation, a coordination structure is established within the host Member State, composed of officers from the host Member State, guest officers and representatives of the Agency, including the Coordinating Officer of the Agency. This coordination structure, usually called International Coordination Centre, should be used as a channel for communication between the</li> </ul>		<ul> <li>(10) The practice under Regulation</li> <li>(EC) No 2007/2004 is that for each sea operation, a coordination structure is established within the host Member State, composed of officers from the host Member State, guest officers and representatives of the Agency, including the Coordinating Officer of the Agency. This coordination structure, usually called International Coordination Centre, should be used as a channel for communication between the</li> </ul>	Identical.

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officers involved in the sea operation		officers involved in the sea operation	
and the authorities concerned		-	
and the authorities concerned		and the authorities concerned.	
	AM 17		
(11) This Regulation respects the	(11) This Regulation respects the	(11) This Regulation respects the	PRES suggests to accept EP text
fundamental rights and observes the	fundamental rights and observes the	fundamental rights and observes the	except the last sentence.
principles recognised by the Charter	principles recognised by Articles 2	principles recognised by the Charter	
of Fundamental Rights of the	and 6 of the Treaty on European	of Fundamental Rights of the	
European Union, notably the right to	Union (TEU) and by the Charter of	European Union, notably the right to	
life, human dignity, prohibition of	Fundamental Rights of the European	life, human dignity, prohibition of	
torture and of inhuman or degrading	Union, <i>in particular respect for</i>	torture, of persecution and of	
treatment or punishment, right to	human dignity, the right to life, the	inhuman or degrading treatment or	
liberty and security, <i>non-refoulement</i> ,	prohibition of torture and of inhuman	punishment, right to liberty and	
non-discrimination, the right to an	or degrading treatment or	security, non-refoulement, non-	
effective remedy, the right to asylum	punishment, the prohibition of	discrimination, the right to an	
and the rights of the child.	trafficking in human beings, the	effective remedy, the right to asylum	
	right to liberty and security, <i>the right</i>	and the rights of the child.	
	to the protection of personal data,		
	the right to asylum and to protection		
	against removal and expulsion, non-		
	refoulement, non-discrimination, the		
	right to an effective remedy [] and		
	the rights of the child. <i>This</i>		
	Regulation should be applied by		
	Member States and the Agency in		
	accordance with those rights and		
	principles. This Regulation also		
	respects the human rights and		
	fundamental freedoms laid down by		
	the European Convention for the		
	Protection of Human Rights and		
	Fundamental Freedoms.		
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(12) Since the objectives of the		(12) Since the objectives of the	Identical.
action to be taken, namely the		action to be taken, namely the	
adoption of specific rules for the		adoption of specific rules for the	
surveillance of the sea borders by		surveillance of the sea borders by	
border guards operating under the		border guards operating under the	
coordination of the Agency, cannot		coordination of the Agency, cannot	
be sufficiently achieved by the		be sufficiently achieved by the	
Member States due to the differences		Member States due to the differences	
in their laws and practices, and can		in their laws and practices, and can	
therefore, by reason of the		therefore, by reason of the	
multinational character of the		multinational character of the	
operations, be better achieved at the		operations, be better achieved at the	
level of the Union, the Union may		level of the Union, the Union may	
adopt measures, in accordance with		adopt measures, in accordance with	
the principle of subsidiarity as set out		the principle of subsidiarity as set out	
in Article 5 of the Treaty. In		in Article 5 of the Treaty. In	
accordance with the principle of		accordance with the principle of	
proportionality, as set out in that		proportionality, as set out in that	
Article, this Regulation does not go		Article, this Regulation does not go	
beyond what is necessary in order to		beyond what is necessary in order to	
achieve those objectives		achieve those objectives.	
	AM 18		
	(12a) This Regulation does not rule		PRES draft compromise:
	out the possibility of determining the		(12a) This Regulation should not
	details of joint operations at sea in		exclude the possibility for the
	specific operational plans, taking		operational plan to contain details
	into account the specific		adapted to the circumstances of the
	requirements and characteristics of		<u>sea operation concerned.</u>
	the context in which the Member		
	States are operating.		

(13) In accordance with Articles 1	(13) In accordance with Articles 1	Proposal of the technical meeting to
and 2 of Protocol No 22 on the	and 2 of <i>the</i> Protocol (No 22) on the	accept the Council text.
position of Denmark, annexed to the	position of Denmark, annexed to the	
Treaty on European Union and to the	Treaty on European Union and to the	
Treaty on the Functioning of the	Treaty on the Functioning of the	
European Union, Denmark is not	European Union, Denmark is not	
taking part in the adoption of this	taking part in the adoption of this	
Regulation and is not bound by it or	Regulation and is not bound by it or	
subject to its application. Given that	subject to its application. Given that	
this Regulation builds upon the	this Regulation builds upon the	
Schengen <i>acquis</i> , under Title V of	Schengen <i>acquis</i> , [] Denmark	
Part Three of the Treaty on the	shall, in accordance with Article 4 of	
Functioning of the European Union,	that Protocol, decide within a period	
Denmark shall, in accordance with	of six months after the [] Council	
Article 4 of that Protocol, decide	has decided on this Regulation	
within a period of six months after	whether it will implement it in its	
the date of adoption of this	national law.	
Regulation whether it will implement		
it in its national law		
(14) As regards Iceland and	(14) As regards Iceland and	Proposal of the technical meeting to
Norway, this Regulation constitutes a	Norway, this Regulation constitutes a	accept the Council text.
development of the provisions of the	development of the provisions of the	
Schengen <i>acquis</i> within the meaning	Schengen <i>acquis</i> within the meaning	
of the Agreement concluded by the	of the Agreement concluded by the	
Council of the European Union and	Council of the European Union and	
the Republic of Iceland and the	the Republic of Iceland and the	
Kingdom of Norway concerning the	Kingdom of Norway concerning the	
association of those two States with	<i>latters'</i> association with the	
the implementation, application and	implementation, application and	

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development of the Schengen $acquis^{I3}$ which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC <sup>I4</sup> on certain arrangements for the application of that Agreement.	development of the Schengen acquis <sup>15</sup> which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC of 17 May 1999 <sup>16</sup> on certain arrangements for the application of	
	that Agreement.	
(15) As regards Switzerland, this	(15) As regards Switzerland, this	Proposal of the technical meeting to
Regulation constitutes a development	Regulation constitutes a development	accept the Council text.
of the provisions of the Schengen	of the provisions of the Schengen	
acquis within the meaning of the	acquis within the meaning of the	
Agreement between the European	Agreement between the European	
Union, the European Community and	Union, the European Community and	
the Swiss Confederation concerning	the Swiss Confederation on the	
the association of the Swiss	Swiss Confederation's association	
Confederation with the	with the implementation, application	
implementation, application and	and development of the Schengen	
development of the Schengen	acquis, <sup>19</sup> which fall within the area	
acquis, <sup>17</sup> which fall within the area	referred to in Article 1, point A, of	
referred to in Article 1, point A, of	Decision 1999/437/EC read in	
Decision 1999/437/EC read in	conjunction with Article 3 of Council	
conjunction with Article 3 of Council	Decision 2008/146/EC [] <sup>20</sup>	
Decision 2008/146/EC of 28 January		
2008 on the conclusion of that		

13 OJ L 176, 10.7.1999, p. 36.

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- OJ L 176, 10.7.1999, p. 31. OJ L 176, 10.7.1999, p. 36. OJ L 176, 10.7.1999, p. 31. 16
- 17 OJ L 53, 27.2.2008, p. 52.

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Agreement on behalf of the European $\frac{18}{18}$		
Community. <sup>18</sup>		
(16) As regards Liechtenstein, this	(16) As regards Liechtenstein, this	Proposal of the technical meeting to
Regulation constitutes a development	Regulation constitutes a development	accept the Council text.
of the provisions of the Schengen	of the provisions of the Schengen	
acquis within the meaning of the	<i>acquis</i> within the meaning of the	
Protocol signed between the	Protocol [] between the European	
European Union, the European	Union, the European Community, the	
Community, the Swiss Confederation	Swiss Confederation and the	
and the Principality of Liechtenstein	Principality of Liechtenstein on the	
on the accession of the Principality	accession of the Principality of	
of Liechtenstein to the Agreement	Liechtenstein to the Agreement	
between the European Union, the	between the European Union, the	
European Community and the Swiss	European Community and the Swiss	
Confederation on the Swiss	Confederation on the Swiss	
Confederation's association with the	Confederation's association with the	
implementation, application and	implementation, application and	
development of the Schengen acquis,	development of the Schengen	
which fall within the area referred to	<i>acquis</i> <sup>23</sup> , which fall within the area	
in Article 1, point A, of Decision	referred to in Article 1, point A, of	
$1999/437/EC^{21}$ read in conjunction	Decision 1999/437/EC <sup>24</sup> read in	
with Article 3 of Council Decision	conjunction with Article 3 of Council	
2011/350/EU of 7 March 2011 on the	Decision 2011/350/EU [] <sup>25</sup>	
conclusion of that protocol on behalf		
of the European Union. <sup>22</sup>		

<sup>19</sup> OJ L 53, 27.2.2008, p. 52.
<sup>20</sup> OJ L 53, 27.2.2008, p. 1.
<sup>18</sup> OJ L 53, 27.2.2008, p. 1.
<sup>21</sup> OJ L 176, 10.7.1999, p. 31.
<sup>22</sup> OJ L 160, 18.6.2011, p. 19.
<sup>23</sup> OJ L 160, 18.5.2011, p. 21.

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(17) This Regulation constitutes a	(17) This Regulation constitutes a	Identical.
development of the provisions of the	development of the provisions of the	
Schengen acquis in which the United	Schengen <i>acquis</i> in which the United	
Kingdom does not take part, in	Kingdom does not take part, in	
accordance with Council Decision	accordance with Council Decision	
2000/365/EC of 29 May 2000	2000/365/EC of 29 May 2000	
concerning the request of the United	concerning the request of the United	
Kingdom of Great Britain and	Kingdom of Great Britain and	
Northern Ireland to take part in some	Northern Ireland to take part in some	
of the provisions of the Schengen	of the provisions of the Schengen	
acquis. <sup>26</sup> The United Kingdom is	<i>acquis.</i> <sup>27</sup> The United Kingdom is	
therefore not taking part in its	therefore not taking part in its	
adoption and is not bound by it or	adoption and is not bound by it or	
subject to its application.	subject to its application.	
(18) This Regulation constitutes a	(18) This Regulation constitutes a	Identical.
development of the provisions of the	development of the provisions of the	
Schengen acquis in which Ireland	Schengen acquis in which Ireland	
does not take part, in accordance	does not take part, in accordance	
with Council Decision 2002/192/EC	with Council Decision 2002/192/EC	
of 28 February 2002 concerning the	of 28 February 2002 concerning the	
request of Ireland to take part in	request of Ireland to take part in	
some of the provisions of the	some of the provisions of the	
Schengen <i>acquis</i> . <sup>28</sup> Ireland is	Schengen <i>acquis</i> . <sup>29</sup> Ireland is	
therefore not taking part in its	therefore not taking part in its	
adoption and is not bound by it or	adoption and is not bound by it or	

<ul> <li>OJ L 160, 18.65.2011, p. 19.</li> <li>OJ L 131, 1.6.2000, p. 43.</li> <li>OJ L 131, 1.6.2000, p. 43.</li> <li>OJ L 131, 1.6.2002, p. 20.</li> <li>OJ L 64, 7.3.2002, p. 20.</li> <li>OJ L 64, 7.3.2002, p. 20.</li> </ul>			
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ANNEX	DG D 1 A	LIMITE	EN

subject to its application.	subject to its application.	
HAVE ADOPTED THIS	HAVE ADOPTED THIS	
REGULATION:	<b>REGULATION:</b>	
CHAPTER I	CHAPTER I	
GENERAL PROVISIONS	GENERAL PROVISIONS	
Article 1	Article 1	
Scope	Scope	
This Regulation shall apply to border	This Regulation shall apply to border	Identical.
surveillance operations carried out by	surveillance operations carried out by	
Member States at their sea external	Member States at their sea external	
borders in the context of operational	borders in the context of operational	
cooperation coordinated by the	cooperation coordinated by the	
European Agency for the	European Agency for the	
Management of Operational	Management of Operational	
Cooperation at the External Borders	Cooperation at the External Borders	
of the Member States of the	of the Member States of the	
European Union	European Union.	
Article 2	Article 2	
Definitions	Definitions	
For the purpose of this Regulation,	For the purpose of this Regulation,	
the following definitions shall apply:	the following definitions shall apply:	
1. 'Agency' means the European	1. 'Agency' means the European	Identical.
Agency for the Management of	Agency for the Management of	
Operational Cooperation at the	Operational Cooperation at the	
External Borders of the Member	External Borders of the Member	
States of the European Union	States of the European Union	
established by Regulation (EC)	established by Regulation (EC)	
No 2007/2004;	No 2007/2004;	
2. 'sea operation' means a joint	2. 'sea operation' means a joint	Identical.
operation, pilot project or rapid	operation, pilot project or rapid	
intervention carried out by Member	intervention carried out by Member	
States for the surveillance of their	States for the surveillance of their	

external sea borders under the		external sea borders under the	
coordination of the Agency;		coordination of the Agency;	<b>7 1</b>
3. 'host Member State' means a		3. 'host Member State' means a	Identical.
Member State in which a sea		Member State in which a sea	
operation takes place or from which		operation takes place or from which	
it is launched;		it is launched;	
	AM 19		
4. 'participating Member State'	4. 'participating Member State'	4. 'participating Member State'	Proposal of the technical meeting to
means a Member State which	means a Member State which	means a Member State which	accept Council text.
participates in a sea operation by	participates in a sea operation by	participates in a sea operation by	
providing assets or human resources,	providing <i>technical equipment or</i>	providing [] technical equipment,	
but which is not a host Member	border guards and other staff, but	border guards deployed as part of	
State;	which is not the host Member State;	the European Border Guard Teams	
		or other relevant staff but which is	
		not a host Member State;	
5. 'participating unit' means a		5. 'participating unit' means a	Proposal of the technical meeting to
maritime or aerial unit of the host		maritime, <i>land</i> or aerial unit <i>under</i>	accept Council text.
Member State or of a participating		the responsibility of the host	
Member State;		Member State or of a participating	
		Member State <i>that takes part in a</i>	
		sea operation;	
6. 'International Coordination		6. 'International Coordination	Identical.
Centre' means the coordination		Centre' means the coordination	
structure established within the host		structure established within the host	
Member State for the coordination of		Member State for the coordination of	
the sea operation;		the sea operation;	
7. 'National Coordination Centre'		7. 'National Coordination Centre'	Proposal of the technical meeting to
means the national coordination		means the national coordination	accept Council text.
centre established for the purposes of		centre established for the purposes of	*
the European Border Surveillance		the European Border Surveillance	
System (EUROSUR) in accordance		System (EUROSUR) in accordance	
with Regulation (EU) No [/];		with Regulation (EU) No 1052/2013;	

	AM 20		
	7a. 'operational plan' means the		See point 13 Council text.
	operational plan referred to in		Proposal of the technical meeting to
	Article 3a or Article 8e of		accept EP text.
	Regulation (EC) No 2007/2004;		
8. 'ship' means a boat, vessel or		8. <i>'vessel' means any type of</i>	Proposal of the technical meeting to
any other craft used at sea;		water craft, including boats,	accept Council text (adaptation
		dinghies, floating platforms, non-	throughout the text).
		displacement craft and seaplanes,	
		used or capable of being used at sea;	
9. 'stateless ship' means a ship		9. 'stateless <i>vessel</i> ' means a	Proposal of the technical meeting to
without nationality or assimilated to		<i>vessel</i> without nationality or	accept Council text (adaptation
a ship without nationality when the		assimilated to a <i>vessel</i> without	throughout the text).
ship has not been granted by any		nationality when the <i>vessel</i> has not	
State the right to fly its flag or when		been granted by any State the right to	
it sails under the flags of two or more		fly its flag or when it sails under the	
States, using them according to		flags of two or more States, using	
convenience;		them according to convenience;	
10. 'Protocol against the		10. 'Protocol against the	Identical.
Smuggling of Migrants' means the		Smuggling of Migrants' means the	
Protocol against the Smuggling of		Protocol against the Smuggling of	
Migrants by Land, Sea and Air,		Migrants by Land, Sea and Air,	
supplementing the United Nations		supplementing the United Nations	
Convention against Transnational		Convention against Transnational	
Organised Crime signed in Palermo,		Organised Crime signed in Palermo,	
Italy in December 2000;		Italy in December 2000;	

	AM 21		
11. 'place of safety' means a	11. 'place of safety' means a	11. 'place of safety' means a	PRES invites to further consider this
location where rescue operations are	location where rescue operations are	location where rescue operations are	issue considering that it is a political
considered to terminate and where	considered to terminate and where	considered to terminate and where	concern for EP.
the survivors' safety of life including	the survivors' safety of life <i>as well as</i>	the survivors' safety of life [] is	
as regards the protection of their	the protection of their fundamental	not threatened, where their basic	
fundamental rights is not threatened,	rights is not threatened, where their	human needs can be met and from	
where their basic human needs can	basic human needs can be met and	which transportation arrangements	
be met and from which transportation	from which transportation	can be made for the survivors' next	
arrangements can be made for the	arrangements can be made for the	destination or final destination, in	
survivors' next destination or final	survivors' next destination or final	compliance with the principle of	
destination;	destination, in compliance with the	non-refoulement;	
	principle of non-refoulement;		
12. 'Rescue Coordination Centre'		12. 'Rescue Coordination Centre'	Identical.
means a unit responsible for		means a unit responsible for	
promoting efficient organisation of		promoting efficient organisation of	
search and rescue services and for		search and rescue services and for	
coordinating the conduct of search		coordinating the conduct of search	
and rescue operations within a search		and rescue operations within a search	
and rescue region as defined in the		and rescue region as defined in the	
1979 International Convention on		1979 International Convention on	
Maritime Search and Rescue.		Maritime Search and Rescue.	
		13. 'Operational plan' means the	PRES and EP text are identical.
		operational plan referred to in	PRES suggests to keep text in the
		Articles 3a and 8e of Regulation	order proposed by EP (see paragraph
		(EC) No 2007/2004.	7a).
		14. 'contiguous zone' means a	Proposal of the technical meeting to
		zone adjacent to the territorial sea	accept Council text.
		as defined in Article 33 of the	
		United Nations Law of the Sea	
		Convention.	

CHAPTER II		CHAPTER II	
GENERAL RULES		GENERAL RULES	
Article 3		Article 3	
Safety at sea		Safety at sea	
	AM 22		
Measures taken for the purpose of a sea operation shall be conducted in a way that does not put at risk the safety of the persons intercepted or rescued and the safety of the participating units.	Measures taken for the purpose of a sea operation shall be conducted in a way that, <i>in all instances, ensures</i> the safety of the persons intercepted or rescued and the safety of the participating units.	Measures taken for the purpose of a sea operation shall be conducted in a way that does not put at risk the safety of the persons intercepted or rescued, [] the safety of the participating units <i>or that of third parties</i> .	Proposal of the technical meeting: Measures taken for the purpose of a sea operation shall be conducted in a way that, <i>in all instances, ensures</i> the safety of the persons intercepted or rescued, the safety of the participating units <i>or that of third</i> <i>parties</i> .
<i>Article 4</i> Protection of fundamental rights and the principle of <i>non-refoulement</i>	414.22	<i>Article 4</i> Protection of fundamental rights and the principle of <i>non-refoulement</i>	
4	AM 23	4	
1. No person shall be	1. No person shall be	1. No person shall be	PRES new draft compromise:
disembarked in, or otherwise handed	disembarked in, conducted towards,	disembarked in, <i>forced to enter</i> or	1. No person shall be
over to the authorities of a country	otherwise handed over to the	otherwise handed over to the	disembarked in, forced to enter,
where there is a serious risk that such	authorities of, or forced to enter, a	authorities of a country where there	conducted to or otherwise handed
person would be subjected to the	country where there is a serious risk	is a serious risk that such person	over to the authorities of a country
death penalty, torture or other	that such person would be subjected	would be subjected to the death	where there is a serious risk that he
inhuman or degrading treatment or	to the death penalty, torture or other	penalty, torture, <i>persecution</i> or other	or she would be subjected to the
punishment or from which there is a	inhuman or degrading treatment or	inhuman or degrading treatment or	death penalty, torture, <u>persecution</u>
serious risk of expulsion, removal or	punishment or any serious violations	punishment or from which there is a	or other inhuman or degrading
extradition to another country in	of their human rights, or where his	serious risk of expulsion, removal or	treatment or punishment, or where
contravention of the principle of non-	or her life or freedom would be	extradition to another country in	his or her life or freedom would be
refoulement.	threatened on account of his or her	contravention of the principle of <i>non</i> -	threatened on account of his or her
	race, religion, nationality, sexual	refoulement.	race, religion, nationality, sexual
	orientation, membership of a		orientation, membership of a
	particular social group or political		particular social group or political

	<i>opinion,</i> or from which there is a serious risk of expulsion, removal or extradition to another country in contravention of the principle of non-refoulement.		opinion; or from which there is a serious risk of such an expulsion, removal or extradition to another country in contravention of <u>the</u> <u>principle of non-refoulement</u> .
	AM 24		
2. Before deciding on	2. Before <i>and during a sea</i>	2. When considering the	PRES draft compromise:
disembarkation in a third country, the	operation, the host Member State	possibility of disembarkation in a	When considering the possibility of
participating units shall take into	and the participating Member States	third country, in the context of	disembarkation in a third country,
account the general situation in that	shall examine the general situation	<i>planning a sea operation</i> , the []	in the context of planning a sea
third country and intercepted or	in the neighbouring third countries	host Member State, in coordination	operation, the host Member State, in
rescued persons shall not be	and the existence of agreements and	with participating Member States	coordination with participating
disembarked in that third country	projects on migration and asylum,	and the Agency, shall take into	Member States and the Agency, shall
when the host Member State or the	carried out in accordance with	account the general situation in that	take into account the general situation
participating Member States are	Union law and through Union	third country []. The assessment	in that third country.
aware or ought to be aware that this	funds. Intercepted or rescued	of the general situation in a third	The assessment of the general
third country is engaged in practices	persons shall not be disembarked in,	country may be based on	situation in a third country may be
as described in paragraph 1	conducted towards, otherwise	information derived from Union	based on information derived from
	handed over to the authorities of, or	bodies, offices and agencies, and	other Member States, Union bodies,
	forced to enter, a third country when	relevant international organisations,	offices and agencies, and relevant
	the host Member State, the	and that assessment shall be part of	international organisations and <u>it</u>
	participating Member States or the	the operational plan. Intercepted or	may take into account the existence
	Agency are aware or ought to be	rescued persons shall not be	of agreements and projects on
	aware that this third country is	disembarked in that third country	migration and asylum carried out in
	engaged in practices as described in	when the host Member State or the	accordance with Union law and
	paragraph 1. Those Member States	participating Member States are	<u>through Union funds.</u> That general
	shall provide that information to the	aware or ought to be aware that this	assessment shall be part of the
	participating units. For that	third country is engaged in practices	operational plan <u>and it shall be</u>
	purpose, they shall use information	as described in paragraph 1.	provided to the participating units.
	from a range of sources, including		That general assessment shall be
	in particular other Member States,		updated as necessary.
	the European External Action		Intercepted or rescued persons shall



	Service, the European Asylum Support Office, the Agency, the United Nations High Commissioner for Refugees and other relevant international and non-governmental organisations.		not be disembarked, <u>forced to enter</u> , <u>conducted to or otherwise handed</u> <u>over to the authorities of a</u> third country when the host Member State or the participating Member States are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1.
3. In case of disembarkation in a	<i>AM 25</i> 3. <i>If</i> disembarkation in a third	3. During the operation, before	PRES suggests the following <u>new</u>
third country, the participating units	country is considered or in the cases	disembarkation in a third country	draft compromise in view of AM 26
shall identify the intercepted or	provided for in point (b) of Article	and taking into account the	and the last sentence of AM 29:
rescued persons and assess their	6(1a) and point (b) of Article 7(1a),	assessment of the general situation	3. During the <u>sea</u> operation,
personal circumstances to the extent	the participating units shall identify	in that third country in accordance	before disembarkation in a third
possible before disembarkation. They	the intercepted or rescued persons	with paragraph 2, the participating	country and taking into account the
shall inform the intercepted or	and assess their personal	units shall, to the extent possible and	assessment of the general situation
rescued persons of the place of	circumstances, <i>including their</i>	without prejudice to Article 3,	in that third country in accordance
disembarkation in an appropriate	medical conditions and other	identify the intercepted or rescued	with paragraph 2, the participating
way and they shall give them an	circumstances that might make	persons, [] assess their personal	units shall, <i>to the extent possible and</i>
opportunity to express any reasons	them vulnerable or subject to	circumstances, [] inform <i>them</i> of	without prejudice to Article 3,
for believing that disembarkation in	international protection needs,	the place of disembarkation in an	identify the intercepted or rescued
the proposed place would be in violation of the principle of <i>non</i> -	<i>before a decision is made</i> . They shall inform the intercepted or rescued	appropriate way, and [] give them an opportunity to express any reasons	persons, [] assess their personal circumstances, [] inform <i>them</i> of
refoulement.	persons of the place of	for believing that disembarkation in	the place of disembarkation in an
	disembarkation <i>in a language which</i>	the proposed place would be in	appropriate way, and [] give them
	those persons understand or may	violation of the principle of <i>non</i> -	an opportunity to express any reasons
	reasonably be presumed to	refoulement.	for believing that disembarkation in
	<i>understand</i> and they shall give them		the proposed place would be in
	an opportunity to express any reasons		violation of the principle of <i>non</i> -
	for believing that disembarkation in		refoulement, <u>unless it is not possible</u>
	the proposed place would be in		in the circumstances of the sea
	violation of the principle of non-		operation concerned.

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	refoulement. Further details shall be provided for in the operational plan.		For those purposes further details shall be provided for in the operational plan including, when necessary, the availability of shore- based medical staff, interpreters and other relevant experts. Each participating unit shall include at least one person with basic first aid training.
4. The participating units shall	<i>AM 26</i> 4. <i>Throughout the sea operation</i> ,	4. The participating units shall	PRES suggests to accept first and
address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation.	<i>the</i> participating units shall address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, <i>disabled</i> <i>persons</i> , persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation. <i>For this purpose</i> , <i>participating units shall be able to</i> <i>draw on medical doctors</i> , <i>interpreters and other relevant</i> <i>experts</i> .	address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation.	second parts of EP text. As regards the third part of EP text, see PRES draft compromise on AM 25.
	AM 27		
	4a. If there are grounds to believe that disembarkation of persons intercepted or rescued at sea in the proposed place would be in violation of the principle of non-refoulement, the participating units shall not share personal information		PRES invites delegations to express view on AM 27.

	regarding the persons with the authorities of the country of origin or with the authorities of other third countries. <u>AM 28</u> 4b. The participating units shall treat all persons on board in a humane way.		PRES suggests to accept EP compromise text 4b. Participating units shall, in the performance of their duties, fully respect human dignity.
5. Border guards participating in a sea operation shall be trained with regard to relevant provisions of fundamental rights, refugee law and the international legal regime of search and rescue.	AM 29 5. All border guards and other personnel of the Member States shall receive, prior to their participation in a sea operation, training in relevant Union and international law, including fundamental rights, children's rights and access to international protection and guidelines for the purpose of identifying persons seeking protection and redirecting them towards the appropriate facilities, and the international legal regime of search and rescue. Each participating unit shall include at least one person with medical training.	5. Border guards <i>and other</i> <i>relevant staff</i> participating in a sea operation shall be trained with regard to relevant provisions of fundamental rights, refugee law and the international legal regime of search and rescue <i>in accordance with the</i> <i>second paragraph of Article 5 of</i> <i>Regulation (EC) No 2007/2004.</i>	As regards the last sentence of EP amendment, see PRES draft compromise on AM 25. PRES invites to further consider this issue.

			1
CHAPTER III		CHAPTER III	
SPECIFIC RULES		SPECIFIC RULES	
Article 5		Article 5	
Detection		Detection	
	AM 30		
1. Upon detection, the	1. Upon detection, the	1. Upon detection, the	Proposal of the technical meeting:
participating units shall approach a	participating units shall approach a	participating units shall approach a	1. Upon detection, the
ship suspected of crossing or	ship suspected of crossing or	vessel suspected of carrying persons	participating units shall approach a
intending to cross the border in an	intending to cross the border in an	<i>circumventing</i> or intending to	vessel suspected of carrying persons
irregular manner to observe its	irregular manner to observe its	circumvent checks at border	<i>circumventing</i> or intending to
identity and nationality and, pending	identity and nationality and, pending	crossing points or of being engaged	circumvent checks at border
further measures, it shall be surveyed	further measures, it shall be surveyed	in the smuggling of migrants by sea	crossing points or of being engaged
at a prudent distance. The	at a prudent distance <i>taking all due</i>	in order to observe its identity and	in the smuggling of migrants by sea
participating units shall communicate	<i>precautions</i> . The participating units	nationality and, pending further	<i>in order</i> to observe its identity and
information about the ship	shall communicate information about	measures, [] shall [] survey that	nationality and, pending further
immediately to the International	the ship immediately to the	vessel at a prudent distance. The	measures, shall survey <i>that vessel</i> at a
Coordination Centre.	International Coordination Centre,	participating units shall <i>collect and</i>	prudent distance taking all due
	including information about the	<i>report</i> information about the <i>vessel</i>	<i>precautions</i> . The participating units
	situation of persons on board, in	immediately to the International	shall <i>collect and report</i> information
	particular whether there is an	Coordination Centre.	about the <i>vessel</i> immediately to the
	<i>imminent risk to their lives or</i>		International Coordination Centre,
	health. It shall transmit the		including, where possible,
	information to the National		information about the situation of
	Coordination Centre of the host		persons on board, in particular
	Member State.		whether there is an imminent risk to
			their lives or health. The
			International Coordination Centre
			shall transmit the information to the
			National Coordination Centre of the
			•
			host Member State.

	AM 31		
2. Where the ship is about to enter	2. Where the ship is about to enter	2. Where <i>a vessel</i> is about to enter	Proposal of the technical meeting:
or it has entered the territorial sea or	or it has entered the territorial sea or,	or it has entered the territorial sea or	2. Where <i>a vessel</i> is about to enter
the contiguous zone of a Member	where formally proclaimed, the	the contiguous zone of a Member	or it has entered the territorial sea or,
State that is not participating in the	contiguous zone, of a Member State	State that is not participating in the	where formally proclaimed, the
sea operation, the participating units	that is not participating in the sea	sea operation, the participating units	contiguous zone of a Member State
shall communicate information about	operation, the participating units	shall <i>collect and report</i> information	that is not participating in the sea
the ship to the International	shall communicate information about	about <i>that vessel</i> to the International	operation, the participating units shall
Coordination Centre, which shall	the ship to the International	Coordination Centre, which shall	collect and report information about
convey this information to the	Coordination Centre, which shall	convey this information to the	that vessel to the International
National Coordination Centre of the	convey this information to the	National Coordination Centre of the	Coordination Centre, which shall
Member State concerned.	National Coordination Centre of the	Member State concerned.	convey this information to the
	Member State concerned.		National Coordination Centre of the
			Member State concerned.
	AM 32		
3. The participating units shall	3. The participating units shall	3. The participating units shall	PRES draft compromise:
communicate information about any	communicate information about any	<i>collect and report</i> information about	The participating units shall <i>collect</i>
ship suspected of being engaged in	ship suspected of being engaged in	any <i>vessel</i> suspected of being	and report information about any
illegal activities at sea outside the	illegal activities at sea, which are	engaged in illegal activities at sea	vessel suspected of being engaged in
scope of a sea operation to the	outside the scope of <i>the</i> sea	outside the scope of a sea operation	illegal activities at sea outside the
International Coordination Centre,	operation, to the International	to the International Coordination	scope of a sea operation to the
which shall convey this information	Coordination Centre, which shall	Centre, which shall convey this	International Coordination Centre,
to the National Coordination Centre	convey this information to the	information to the National	which shall convey this information
of the Member State or Member	National Coordination Centre of the	Coordination Centre of the Member	to the National Coordination Centre
States concerned.	Member State or Member States	State or Member States concerned.	of the Member State or Member
	concerned. When necessary and for		States concerned <i>using the</i>
	the purposes laid down in this		EUROSUR communication
	Regulation, the authorities of the		<u>network.</u>
	Member States concerned and the		
	Agency shall make use of the		
	EUROSUR framework.		

Article 6		Article 6	
Interception in the territorial sea		Interception in the territorial sea	
	AM 33		
1. In the territorial sea of the host	1. In the territorial sea of the host	1. In the territorial sea of the host	PRES invites delegations to consider
Member State or a participating	Member State or a participating	Member State or a <i>neighbouring</i>	positively the EP amendments in
Member State, the participating units	Member State, the participating units	participating Member State, the	Articles 6, 7 and 8 as regards the split
shall take one or more of the	shall take one or more of the	participating units shall, subject to	between the interception measures.
following measures when there are	following measures, subject to the	the authorisation of the coastal	
reasonable grounds to suspect that a	authorisation of the Member State	<i>Member State</i> , take one or more of	
ship is carrying persons intending to	to which the territorial sea belongs,	the following measures when there	
circumvent checks at border crossing	when there are reasonable grounds to	are reasonable grounds to suspect	
points or is engaged in the smuggling	suspect that a ship is carrying	that a <i>vessel may be</i> carrying persons	
of migrants by sea:	persons intending to circumvent	who intend to circumvent checks at	
	checks at border crossing points or is	border crossing points or is engaged	
	engaged in the smuggling of	in the smuggling of migrants by sea:	
	migrants by sea:		
(a) requesting information and	(a) requesting information and	(a) requesting information and	
documentation on ownership,	documentation on ownership,	documentation on ownership,	
registration and elements relating to	registration and elements relating to	registration and elements relating to	
the voyage, and on the identity,	the voyage, and on the identity,	the voyage <i>of the vessel</i> , and on the	
nationality and other relevant data on	nationality and other relevant data on	identity, nationality and other	
persons on board;	persons on board, <i>including their</i>	relevant data on persons on board;	
	health conditions, in order to assess		
	if there are persons with special		
	medical needs on board;		
(b) stopping, boarding and	(b) stopping, boarding and	(b) stopping, boarding and	Proposal of the technical meeting to
searching the ship, its cargo and	searching the ship, its cargo and	searching the <i>vessel</i> , its cargo and	accept Council text.
persons on board, and questioning	persons on board, and questioning	persons on board, and questioning	
persons on board;	persons on board;	persons on board;	

(c) making persons on board aware that they may not be authorised to cross the border and that persons directing the <i>ship</i> may face penalties for facilitating the voyage;       (c) making persons on board aware as to why they may not be authorised to cross the border and that persons directing the <i>ship</i> may face penalties for facilitating the voyage;       (c) making persons on board aware that they may not be authorised to cross the border and that persons directing the <i>ship</i> may face penalties for facilitating the voyage;       (c) making persons on board aware that they may not be authorised to cross the border and that persons directing the <i>ship</i> may face penalties for facilitating the voyage;         Image: the ship and apprehending persons on board:       (a) seizing the ship and apprehending persons on board;       (d) seizing the ship and apprehending persons on board;       (d) seizing the ship and apprehending persons on board;       (e) ordering the ship to modify its course outside of r towards a destination other than the territorial sea or the contiguous zone, including escorting the ship or persons on board;       (e) conducting the ship or persons       Proposal of the technical meeting to accept Council text.         (f) conducting the ship or persons       (c) conducting the ship or persons       (d) seizing the vessel or steaming nearby until <i>u</i> is heading on such course;       (f) conducting the ship or persons       (f) conducting the ship or persons         (f) conducting the ship or persons       (c) conducting the ship or persons       (c) conducting the ship or persons       (f) conducting the ship or persons         (f) conducting the ship or persons       (c) conducting the ship or persons				I
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participating in the operation, or to the coastal Member State.participating in the operation, or to the coastal Member State <i>in</i>			persons on board to [] the coastal	
the coastal Member State. the coastal Member State <i>in</i>	to another Member State	to another Member State	Member State.	
the coastal Member State. the coastal Member State <i>in</i>	participating in the operation, or to	participating in the operation, or to		
accordance with the operational		accordance with the operational		
plan.				

		Any measures taken in accordance with this paragraph shall be proportionate and shall not exceed what is necessary to achieve the objectives of this Article.	
	AM 34 1b. The measures described in		DDES approache not to account AM 24
	1b. The measures described in point (b) of paragraph 1a may only be taken if the participating unit:		PRES suggests not to accept AM 34. As a draft compromise, PRES suggests to explicitly subject the application of Articles 6, 7 and 8 to Article 4.
	(i) has ascertained that the ship is not forced to enter a third country in violation of Article 4(1) and		
	<ul> <li>(ii) has conducted, if applicable,</li> <li>the measures provided for in Article</li> <li>4(3) and (4).</li> </ul>		
	Article 6 of Directive 2013/32/EU shall apply.		
2. The host Member State or the participating Member State on whose		2. The host Member State or <i>a neighbouring</i> participating Member	
territorial sea the interception takes place shall authorise the measures		State on whose territorial sea the interception takes place <i>may</i>	
referred to in paragraph 1 and it shall instruct the participating unit		authorise <i>one or more of</i> the measures referred to in paragraph 1.	
appropriately through the International Coordination Centre.		<i>The host Member State</i> shall instruct the participating unit appropriately	
The participating unit shall inform the host Member State, through the		through the International Coordination Centre.	
International Coordination Centre, whenever the master of the ship		The participating unit shall inform the host Member State, through the	
requests that a diplomatic agent or a		International Coordination Centre,	

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consular officer of the flag State be		whenever the master of the <i>vessel</i>	
notified.		requests that a diplomatic agent or a	
		consular officer of the flag State be	
		notified.	
	AM 35		
3. Where there are reasonable	3. Where there are reasonable	3. Where there are reasonable	
grounds to suspect that a ship	grounds to suspect that <i>a stateless</i>	grounds to suspect that a stateless	
without nationality or one that may	<i>ship</i> is carrying persons intending to	<i>vessel</i> [] is carrying persons	
be assimilated to a ship without	circumvent the checks at border	intending to circumvent the checks at	
nationality is carrying persons	crossing points or is engaged in the	border crossing points or is engaged	
intending to circumvent the checks at	smuggling of migrants by sea, the	in the smuggling of migrants by sea,	
border crossing points or is engaged	host Member State or the	the host Member State or the	
in the smuggling of migrants by sea,	participating Member State in whose	neighbouring participating Member	
the host Member State or the	territorial sea the stateless ship is	State in whose territorial sea the	
participating Member State in whose	intercepted shall authorise and	stateless <i>vessel</i> is intercepted <i>may</i>	
territorial sea the stateless ship is	instruct the participating unit to stop	authorise that it be stopped and that	
intercepted shall authorise and	it and to take any of the measures	one or more of the measures laid	
instruct the participating unit to stop	laid down in paragraph 1.	down in paragraph 1 <i>be taken. The</i>	
it and to take any of the measures		host Member State shall instruct the	
laid down in paragraph 1.		participating unit appropriately	
		through the International	
		Coordination Centre.	
4. Any operational activities in		4. Any operational activities in	
the territorial sea of a Member State		the territorial sea of a Member State	
that is not participating in the sea		that is not participating in the sea	
operation shall be conducted in		operation shall be conducted in	
accordance with the authorisation of		accordance with the authorisation of	
that Member State. The International		that Member State. The host	
Coordination Centre shall be		Member State shall instruct the	
informed of any communication with		participating unit through the	
that Member State and of the		International Coordination Centre	
subsequent course of action		based on the course of action	



authorised by that Member State.		authorised by that Member State.	
	AM 36		
	4a. Member States and the		PRES suggests not to accept AM 36
	Agency are bound by the provisions		which is covered by recital 5.
	of the asylum acquis, and in		
	particular of Directive 2013/32/EU		
	of the European Parliament and of		
	the Council on common procedures		
	for granting and withdrawing		
	international protection with regard		
	to applications for international		
	protection made in the territory,		
	including at the border, in the territorial waters or in the transit		
	zones of Member States.		
Article 7	zones of member States.	Article 7	
Interception on the high seas		Interception on the high seas	
	AM 37		
1. On the high seas, the	1. On the high seas, the	1. On the high seas, the	PRES invites delegations to consider
participating units shall take one or	participating units shall take one or	participating units <i>may</i> take one or	positively the EP amendments in
more of the following measures	more of the following measures	more of the following measures	Articles 6, 7 and 8 as regards the split
when there are reasonable grounds to	when there are reasonable grounds to	when there are reasonable grounds to	between the interception measures.
suspect that a ship is engaged in the	suspect that a ship is engaged in the	suspect that a <i>vessel</i> is engaged in the	
smuggling of migrants by sea subject		smuggling of migrants by sea subject	
to the authorisation of the flag State	to the authorisation of the flag State	to the authorisation of the flag State	
in accordance with the Protocol	in accordance with the Protocol	in accordance with the Protocol	
against the Smuggling of Migrants:	against the Smuggling of Migrants:	against the Smuggling of Migrants,	
		and where relevant, national and	
		international law, and in	
		accordance with the instructions of	
		the host Member State:	

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(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board;	(a) requesting information and documentation on ownership, registration and elements relating to the voyage, and on the identity, nationality and other relevant data on persons on board, <i>including their</i> <i>health conditions, in order to assess</i> <i>if there are persons with special</i> <i>medical needs on board</i> ;	(a) requesting information and documentation on ownership, registration and elements relating to the voyage <i>of the vessel</i> , and on the identity, nationality and other relevant data on persons on board;	
<ul> <li>(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;</li> <li>(c) making persons on board aware that they are may not be authorised to cross the border and that persons directing the craft may face penalties for facilitating the voyage;</li> </ul>	<ul> <li>(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;</li> <li>(c) making persons on board aware <i>as to why</i> they <i>[]</i> may not be authorised to cross the border and that persons directing the <i>ship</i> may face penalties for facilitating the voyage.</li> </ul>	<ul> <li>(b) stopping, boarding and searching the <i>vessel</i>, its cargo and persons on board, and questioning persons on board;</li> <li>(c) making persons on board aware that they [] may not be authorised to cross the border and that persons directing the <i>vessel</i> may face penalties for facilitating the voyage;</li> </ul>	Proposal of the technical meeting to accept Council text.
	1a. If the suspicions that a ship is engaged in the smuggling of migrants by sea prove to be founded, the participating unit may take one or more of the following measures subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:		

(d) seizing the ship and apprehending persons on board;	( <i>a</i> ) seizing the ship and apprehending persons on board;	(d) seizing the <i>vessel</i> and apprehending persons on board;	Proposal of the technical meeting to accept Council text.
<ul> <li>(e) ordering the ship to modify its course outside of or towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the ship is heading on such course;</li> </ul>	Deleted	<ul> <li>(e) ordering the <i>vessel</i> to <i>alter</i> its course [] towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the <i>vessel</i> is heading on such course;</li> </ul>	PRES invites delegations to further consider this issue considering that it is a political concern for EP, taking into account this PRES draft compromise: (e) warn the vessel not to enter the territorial sea or the contiguous zone, and where necessary request the vessel to alter its course towards a destination other than the territorial sea or the contiguous zone, including escorting the vessel or steaming nearby until the vessel is heading on such course.
(f) conducting the ship or persons on board to a third country or otherwise handing over the ship or persons on board to the authorities of a third country;	(b) conducting the ship or persons on board to a third country or otherwise handing over the ship or persons on board to the authorities of a third country;	(f) conducting the <i>vessel</i> or persons on board to a third country or otherwise handing over the <i>vessel</i> or persons on board to the authorities of a third country;	Proposal of the technical meeting to accept Council text.
(g) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation.	(c) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation.	(g) conducting the <i>vessel</i> or persons on board to the host Member State or to another <i>neighbouring</i> Member State participating in the operation.	
		Any measures taken in accordance with this paragraph shall be proportionate and shall not exceed what is necessary to achieve the objectives of this Article.	

	AM 38		
	1b. The measures described in		PRES suggests not to accept AM 38.
	point (b) of paragraph 1a may only		As a draft compromise, PRES
	be taken if the participating unit:		suggests to explicitly subject the
			application of Articles 6, 7 and 8 to Article 4.
	( <i>i</i> ) has ascertained that the ship is		Arucie 4.
	<i>not forced to enter a third country in</i>		
	violation of Article 4(1) and		
	( <i>ii</i> ) has conducted, if applicable,		
	the activities provided for in Article		
	4(3) and (4).		
	AM 39		
	1c. When there are reasonable		PRES draft compromise is to have a
	grounds to suspect that a ship is		recital replacing AM 39, which
	engaged in trafficking of human		would read as follows and which is to
	beings and illegal immigration,		be included after recital 5:
	assistance shall be given to victims.		<u>The application of this Regulation</u>
			<u>should be without prejudice to</u> Directive 2011/36 of the European
			Parliament and the Council on
			preventing and combating
			traffickling in human beings and
			protecting its vistims, in particular
			as regards assistance to be given to
			victims of trafficking in human
			beings.
2. Where the ship is flying the		2. Where the <i>vessel</i> is flying the	
flag or displays the marks of registry		flag or displays the marks of registry	
of the host Member State or of a		of the host Member State or of a	
participating Member State, that		participating Member State, that	
Member State shall, after confirming		Member State <i>may</i> , after confirming	

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the nationality of the ship, authorise	the nationality of the <i>vessel</i> ,
the measures laid down in	authorise one or more of the
paragraph 1.	measures laid down in paragraph 1.
	The host Member State shall then
	instruct the participating unit
	appropriately through the
	International Coordination Centre.
3. Where the ship is flying the	3. Where the <i>vessel</i> is flying the
flag or displays the marks of registry	flag or displays the marks of registry
of a Member State that is not	of a Member State that is not
participating in the sea operation or	participating in the sea operation or
of a third country, the host Member	of a third country, the host Member
State or a participating Member	State or a participating Member
State, depending on whose	State, depending on whose
participating unit has intercepted this	participating unit has intercepted this
ship, shall notify the flag State, it	<i>vessel</i> , shall notify the flag State, it
shall request confirmation of registry	shall request confirmation of registry
and, if nationality is confirmed, it	and, if nationality is confirmed, <i>it</i>
shall request authorisation from the	shall request that the flag State take
flag State to take any of the measures	action to suppress the use of its
laid down in paragraph 1. The host	vessel for smuggling of migrants. If
Member State or the participating	the flag State is unwilling or unable
Member State shall inform the	to do so either directly or with the
International Coordination Centre of	assistance of the Member State to
any communication with the flag	whom the participating unit
State and of the measures authorised	belongs, the latter shall request
by the flag State.	authorisation from the flag State to
	take any of the measures laid down
	in paragraph 1. The host Member
	State or the participating Member
	State shall inform the International
	Coordination Centre of any



		communication with the flag State and of the <i>intended actions or</i> measures authorised by the flag State. <i>The host Member State shall</i> <i>then instruct the participating unit</i> <i>appropriately through the</i> <i>International Coordination Centre.</i>	
4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the ship is, in reality, of the same nationality as a participating unit, that participating unit shall verify the ship's right to fly its flag. To this end, it may approach the suspected ship. If suspicion remains after the documents have been checked, it shall proceed to a further examination on board the ship, which must be carried out with all possible consideration. The participating Member State of which the ship is allegedly flying the flag shall be contacted through the appropriate channels.	<i>AM 40</i> 4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the ship is, in reality, of the same nationality as a participating unit, that participating unit shall verify the ship's right to fly its flag. To this end, it may approach the suspected ship. If suspicion remains after the documents have been checked, it shall proceed to a further examination on board the ship, which <i>shall</i> be carried out with all possible consideration. The participating Member State of which the ship is allegedly flying the flag shall be contacted through the appropriate channels.	4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the <i>vessel</i> is, in reality, of the same nationality as a participating unit, that participating unit shall verify the <i>vessel's</i> right to fly its flag. To this end, it may approach the suspected <i>vessel</i> . If suspicion remains [], it shall proceed to a further examination on board the <i>vessel</i> , which must be carried out with all possible consideration. []	<u>Proposal of the technical meeting:</u> 4. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the <i>vessel</i> is, in reality, of the same nationality as a participating unit, that participating unit shall verify the <i>vessel's</i> right to fly its flag. To this end, it may approach the suspected <i>vessel</i> . If suspicion remains, it shall proceed to a further examination on board the <i>vessel</i> , which <b>shall</b> be carried out with all possible consideration.
5. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the ship is, in reality, of the nationality of the host Member State or another participating Member		5. Where, though flying a foreign flag or refusing to show its flag, there are reasonable grounds to suspect that the <i>vessel</i> is, in reality, of the nationality of the host Member State or another participating Member	Proposal of the technical meeting to accept Council text.

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State, the participating unit shall verify the ship's right to fly its flag upon authorisation of that Member State.		State, the participating unit shall verify the <i>vessel's</i> right to fly its flag [].	
6. Where, in the cases referred to in paragraphs 4 or 5, the suspicions regarding the nationality of the ship prove to be founded, the host Member State or the participating Member State shall authorise the measures laid down in paragraph 1.		6. Where, in the cases referred to in paragraphs 4 or 5, the suspicions regarding the nationality of the <i>vessel</i> prove to be founded, <i>that</i> host Member State or <i>that</i> participating Member State <i>may</i> authorise <i>one or</i> <i>more of</i> the measures laid down in paragraph 1. <i>The host Member State</i> <i>shall then instruct the participating</i> <i>unit appropriately through the</i> <i>International Coordination Centre.</i>	
7. Pending or in the absence of authorisation of the flag State, the ship shall be surveyed at a prudent distance. No other measures shall be taken without the express authorisation of the flag State, except those necessary to relieve imminent danger to the lives of persons or those measures which derive from relevant bilateral or multilateral agreements.		7. Pending or in the absence of authorisation of the flag State, the <i>vessel</i> shall be surveyed at a prudent distance. No other measures shall be taken without the express authorisation of the flag State, except those necessary to relieve imminent danger to the lives of persons or those measures which derive from relevant bilateral or multilateral agreements.	Proposal of the technical meeting to accept Council text.
8. Where there are reasonable grounds to suspect that a ship without nationality or one that may be assimilated to a ship without nationality is engaged in the	AM 41 8. Where there are reasonable grounds to suspect that <i>a stateless</i> <i>ship</i> is engaged in the smuggling of migrants by sea, the participating unit may board and <i>search</i> the ship	8. Where there are reasonable grounds to suspect that a <i>stateless vessel</i> is engaged in the smuggling of migrants by sea, the participating unit may board and <i>search</i> the <i>vessel</i>	

smuggling of migrants by sea, the participating unit may board and stop	with a view to verifying its statelessness. If suspicions prove to	with a view to verifying its statelessness. If suspicions prove to	
the ship with a view to verifying its	be founded further appropriate	be founded <i>the participating unit</i>	
statelessness. If suspicions prove to	measures as laid down in paragraph 1	shall inform the host Member State	
be founded further appropriate	may be taken in accordance with	which may take, directly or with the	
measures as laid down in paragraph 1	national law, Union law and	assistance of the Member State to	
may be taken in accordance with	international law.	whom the participating unit	
national law and international law.		belongs, further appropriate	
		measures as laid down in paragraph 1	
		[] in accordance with national []	
		and international law.	
9. A Member State that has taken		9. A Member State that has taken	Identical.
any measure in accordance with		any measure in accordance with	
paragraph 1 shall promptly inform		paragraph 1 shall promptly inform	
the flag State of the results of that		the flag State of the results of that	
measure.		measure.	
	AM 42		
10. The national official	10. The national official	10. The national official	Proposal of the technical meeting:
representing the host Member State	representing the host Member State	representing the host Member State	10. The national official
or a participating Member State at	or a participating Member State at	or a participating Member State at	representing the host Member State
the International Coordination Centre	the International Coordination Centre	the International Coordination Centre	or a participating Member State at the
shall be designated under national	shall be <i>responsible to facilitate</i>	shall be <i>responsible to facilitate</i>	International Coordination Centre
law as an authority for the	communications with the relevant	communications with the relevant	shall be <i>responsible to facilitate</i>
authorisation to verify the right of a	authorities of the Member State	authorities of the flag State in	communications with the relevant
ship to fly the flag of the Member	concerned in seeking authorisation	seeking authorisation to verify the	authorities of the Member State
State concerned or to take any of the	to verify the right of a ship to fly <i>its</i>	right of a <i>vessel</i> to fly the flag of the	concerned in seeking authorisation to
measures laid down in paragraph 1.	flag [] or to take any of the	Member State concerned or to take	verify the right of a <i>vessel</i> to fly <i>its</i>
	measures laid down in paragraph 1.	any of the measures laid down in	flag [] or to take any of the
		paragraph 1.	measures laid down in paragraph 1.

11. Where the grounds for		11. Where the grounds for	Proposal of the technical meeting to
suspecting that a ship is engaged in		suspecting that a <i>vessel</i> is engaged in	accept Council text.
the smuggling of migrants on the		the smuggling of migrants on the	
high seas prove to be unfounded or		high seas prove to be unfounded or	
the participating unit does not have		the participating unit does not have	
jurisdiction to act, but there remains		jurisdiction to act, but there remains	
a reasonable suspicion that the ship is		a reasonable suspicion that the <i>vessel</i>	
carrying persons intending to reach		is carrying persons intending to reach	
the border of a Member State and to		the border of a Member State and to	
circumvent checks at border crossing		circumvent checks at border crossing	
e		e	
points, that ship shall continue to be monitored. The International		points, that <i>vessel</i> shall continue to be monitored. The International	
Coordination Centre shall		Coordination Centre shall	
communicate information about the		communicate information about the	
ship to the National Coordination		<i>vessel</i> to the National Coordination	
Centre of the Member States towards		Centre of the Member States towards	
which it is directed.		which it is directed.	
Article 8		Article 8	
Interception in the contiguous zone		Interception in the contiguous zone	
	AM 43		
1. In the zone contiguous to the	1. In the <i>formally proclaimed</i>	1. In the zone contiguous to the	A possible compromise text depends
territorial sea of a Member State,	zone contiguous to the territorial sea	territorial sea of a Member State,	on the outcome of discussions on
which is a host Member State or a	of a Member State, which is a host	which is a host Member State or a	Article 6 and 7.
participating Member State, the	Member State or a participating	<i>neighbouring</i> participating Member	
measures laid down in Article 6(1)	Member State, the measures laid	State, the measures laid down in	
shall be taken in accordance with	down in Article $6(1)$ shall be taken in	Article $6(1)$ shall be taken in	
Article 6(2).	accordance with Article 6(1b) and	accordance with Article 6(2). Such	
	(2) and Article 4.	authorisation may only be given for	
		measures that are necessary to	
		prevent the infringement of laws	
		and regulations within that Member	
		State's territory or territorial sea.	

2. The measures laid down in		2. The measures laid down in	
Article $6(1)$ shall not be taken in the		Article $6(1)$ shall not be taken in the	
contiguous zone of a Member State		contiguous zone of a Member State	
that is not participating in the sea		that is not participating in the sea	
operation without the authorisation		operation without the authorisation	
of that Member State. The		of that Member State. The	
International Coordination Centre		International Coordination Centre	
shall be informed of any		shall be informed of any	
communication with that Member		communication with that Member	
State and of the subsequent course of		State and of the subsequent course of	
action authorised by that Member		action authorised by that Member	
State.		State. If that Member State does not	
		give its authorisation and where	
		there is a reasonable suspicion that	
		the vessel is carrying persons	
		intending to reach the border of a	
		Member State, Article 7(11) shall	
		apply.	
3. Where a stateless ship is		3. Where a stateless <i>vessel</i> is	Proposal of the technical meeting to
transiting the contiguous zone,		transiting the contiguous zone,	accept the Council text.
Article 7(8) shall apply.		Article 7(8) shall apply.	
Article 9		Article 9	
Search and rescue situations		Search and rescue situations	
	AM 44		
	-1. Before a sea operation,		PRES draft compromise combining
	Member States shall ensure that		AM 44 with paragraph 1:
	their participating units will comply		Member States shall observe their
	with the obligation to render		obligation to render assistance to
	assistance to any ship or person in		any vessel or person in distress at
	distress at sea, in accordance with		sea and during a sea operation, they
	applicable provisions of		shall ensure that their participating
	international Conventions		units comply with that obligation, in
	international Conventions		units comply with that obligation, in



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	governing search and rescue and fundamental rights. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.		accordance with international law and in respect of fundamental rights. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.
1. During a sea operation, participating units shall render assistance to any ship or person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.	1. During a sea operation, participating units shall render assistance to any ship or person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.	1. During a sea operation, Member States shall observe their obligation to render assistance to any vessel or person in distress at sea and shall ensure that their participating units comply with that obligation, in accordance with international law and in respect of fundamental rights. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.	
		2. For the purpose of dealing with search and rescue situations that may occur during a sea operation, the operational plan may contain details adapted to the circumstances of the sea operation concerned and it shall contain, in accordance with relevant international law including that on search and rescue, at least the following elements:	<ul> <li>PRES draft compromise (to be read together with the closing phrase added at the end of paragraph 2):</li> <li>2. For the purpose of dealing with search and rescue situations that may occur during a sea operation, the operational plan [] shall contain, in accordance with relevant -international law including that on search and rescue, at least the following provisions:</li> </ul>

2. When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a ship or any person on board, the participating unit shall forward as soon as possible all	2. When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a ship or any person on board, the participating unit shall forward as soon as possible all	(a) When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a <i>vessel</i> or any person on board, the participating units shall <i>consider and promptly</i> forward all	PRES draft compromise is to use the language of point 4.2.3. SAR: (a) When [], in the course of a sea operation, <u>the participating units</u> <u>have reason to believe that they are</u> <u>facing</u> a situation of uncertainty, alert
available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.	available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.	available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs <i>and they shall</i>	or distress as regards a <i>vessel</i> or any person on board, the <u>v</u> [] shall <i>promptly</i> forward all available information to the Rescue
		place themselves at the disposal of that Rescue Coordination Centre.	Coordination Centre responsible for the search and rescue region in which the situation occurs <i>and they shall</i> <i>place themselves at the disposal of</i> <i>that Rescue Coordination Centre</i> .
		(b) The participating units shall inform the International Coordination Centre as soon as possible of any contact with the Rescue Coordination Centre and of the course of action taken by them.	PRES suggests to maintain the Council text
	3. To assist in determining the appropriate operating procedures, the following emergency situations shall be distinguished by the participating units:		<u>PRES</u> suggests as a compromise to combine the structure of paragraphs 3 to 5, as proposed by the Commission, with the definitions from international law (SAR):
3. A ship or the persons on board shall be considered to be in a situation of uncertainty in particular when:	(a) [] situation of uncertainty []:	Deleted	3. A vessel or the persons on board shall be considered to be in a situation of uncertainty in particular:

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(a) doubt exists as to the safety of a ship or the persons on board; or	(i) when a person has been reported as missing or a ship is overdue; or	Deleted	(a) when a person has been reported as missing or a vessel is overdue; or
(b) there is lack of information concerning progress or position of a ship.	(ii) when a person or a ship has failed to make an expected position or safety report.	Deleted	(b) when a person or a vessel has failed to make an expected position or safety report.
4. A ship or the persons on board shall be considered to be in a situation of alert in particular when:	(b) [] situation of alert:	Deleted	4. A vessel or the persons on board shall be considered to be in a situation of alert in particular:
(a) apprehension exists as to the safety of a ship or the persons on board because of information that serious difficulties exist, but not to the extent that a distress situation is likely; or	(i) when, following a situation of uncertainty, attempts to establish contact with a person or a ship have failed and inquiries addressed to other appropriate sources have been unsuccessful; or	Deleted	(a) when, following a situation of uncertainty, attempts to establish contact with a person or a vessel have failed and inquiries addressed to other appropriate sources have been unsuccessful; or
(b) there is continued lack of information concerning progress or position of a ship.	(ii) when information has been received indicating that the operating efficiency of a ship is impaired, but not to the extent that a distress situation is likely.	Deleted	(b) when information has been received indicating that the operating efficiency of a vessel is impaired, but not to the extent that a distress situation is likely.
5. A ship or the persons on board shall be considered to be in a situation of distress in particular when:	(c) [] situation of distress []:	Deleted	5. A vessel or the persons on board shall be considered to be in a situation of distress in particular:
(a) positive information is received that a ship or a person on board is in danger and needs immediate assistance; or	( <i>i</i> ) <i>when</i> positive information is received that <i>a person or a ship</i> is in danger and <i>in need of</i> immediate assistance; or	Deleted	(a) when positive information is received that a person or a vessel is in danger and in need of immediate assistance; or

(b) attemps to establish contact with the ship fail and unsuccessful inquiries point to the probability that the ship is in distress; or	( <i>ii</i> ) when, following a situation of alert, further unsuccessful attempts to establish contact with a person or a ship and more widespread unsuccessful inquiries point to the probability that a distress situation exists; or	Deleted	(b) when, following a situation of alert, further unsuccessful attempts to establish contact with a person or a vessel and more widespread unsuccessful inquiries point to the probability that a distress situation exists; or
(c) information is received which indicates that the operating efficiency of the ship has been impaired to the extent that a distress situation is likely.	( <i>iii</i> ) when information is received which indicates that the operating efficiency of <i>a</i> ship has been impaired to the extent that a distress situation is likely.	Deleted	(c) when information is received which indicates that the operating efficiency of a vessel has been impaired to the extent that a distress situation is likely.
6. When assessing the situation for the purposes of paragraphs 3 to 5, participating units shall take all relevant elements into account, including:	4. When assessing the situation for the purposes of <i>paragraph 3</i> , participating units shall take all relevant elements into account <i>and</i> <i>communicate their assessment to</i> <i>the responsible Rescue</i> <i>Coordination Centre</i> , including <i>in</i> <i>particular</i> :	(c) For the purpose of considering whether the vessel is in the situation of uncertainty, alert or distress participating units shall forward all relevant information and observations to the responsible Rescue Coordination Centre including:	PRES draft compromise:(c)Participating units shall, forthe purpose of considering whetherthe vessel is in the situation ofuncertainty, alert or distress.[]take into account and forwardall relevant information andobservations to the responsibleRescue Coordination Centreincluding:
(a) the existence of a request for assistance;	(a) the existence of a request for assistance;	(i) the existence of a request for assistance, although such a request shall not be the sole factor for determining the existence of a distress situation;	Proposal of the technical meeting to accept the Council text.
(b) the seaworthiness of the ship and the likelihood that the ship will not reach its final destination;	(b) the seaworthiness of the ship and the likelihood that the ship will not reach its final destination;	( <i>ii</i> ) the seaworthiness of the <i>vessel</i> and the likelihood that the <i>vessel</i> will not reach its final destination;	Proposal of the technical meeting to accept the Council text.

(c) the number of passengers in relation to the type and condition of the ship;	(c) the number of passengers in relation to the type and condition of the ship ( <i>overloading</i> );	( <i>iii</i> ) the number of <i>persons on board</i> in relation to the type and condition of the <i>vessel;</i>	Proposal of the technical meeting to accept the Council text.
(d) the availability of necessary supplies such as fuel, water, food to reach a shore;	(d) the availability of necessary supplies (fuel, water, food, <i>etc</i> ) to reach a shore;	( <i>iv</i> ) the availability of necessary supplies such as fuel, water, food to reach a shore;	Proposal of the technical meeting to accept the Council text.
(e) the presence of qualified crew and command of the ship;	(e) the presence of qualified crew and command of the ship;	(v) the presence of qualified crew and command of the <i>vessel;</i>	Proposal of the technical meeting to accept the Council text.
(f) the availability and capability of safety, navigation and communication equipment;	(f) the availability [] of safety, navigation and communication equipment;	( <i>vi</i> ) the availability and capability of safety, navigation and communication equipment;	Proposal of the technical meeting to accept the Council text.
(g) the presence of passengers in urgent need of medical assistance;	(g) the presence of passengers in urgent need of medical assistance;	( <i>vii</i> ) the presence of <i>persons on board</i> in urgent need of medical assistance;	Proposal of the technical meeting to accept the Council text.
(h) the presence of deceased passengers;	(h) the presence of deceased passengers;	(viii) the presence of deceased <i>persons on board;</i>	Proposal of the technical meeting to accept the Council text.
(i) the presence of pregnant women or children;	(i) the presence of pregnant women or children;	( <i>ix</i> ) the presence of pregnant women or children;	Proposal of the technical meeting to accept the Council text.
(j) the weather and sea conditions, including weather and marine forecasts.	(j) the weather and sea conditions <i>[]</i> .	( <i>x</i> ) the weather and sea conditions, including weather and marine forecasts.	Proposal of the technical meeting to accept the Council text.
7. Participating units shall promptly communicate their assessment of the situation to the responsible Rescue Coordination Centre. While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety of the persons concerned.	5. [] While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety of the persons concerned.	(d) [] While awaiting instructions from the Rescue Coordination Centre, participating units shall take all the appropriate measures to ensure the safety of the persons concerned.	Proposal of the technical meeting to accept the Council text.

8. The existence of a distress situation shall not be exclusively dependent on or determined by an actual request for assistance. Where, despite a ship being perceived to be in a distress situation, the persons on board refuse to accept assistance, the participating unit shall inform the Rescue Coordination Centre and continue to fulfil a duty of care by surveying the ship at a prudent distance and by taking any measure necessary for the safety of the persons concerned, while avoiding to take any action that might aggravate the situation or increase the chances	6. The existence of a distress situation shall not be exclusively dependent on or determined by an actual request for assistance. <i>In cases</i> <i>where</i> , despite a ship being perceived to be in a distress situation, the persons on board refuse to accept assistance, the participating unit shall inform the Rescue Coordination Centre and continue to fulfil a duty of care [], taking any measure necessary for the safety of the persons concerned, while avoiding to take any action that might aggravate the situation or increase the chances of injury or loss of life.	(e) [] Where [] a vessel is considered to be in a situation of uncertainty, alert or distress but the persons on board refuse to accept assistance, the participating unit shall inform the responsible Rescue Coordination Centre and follow its instructions. The participating unit shall continue to fulfil a duty of care by surveying the vessel [] and by taking any measure necessary for the safety of the persons concerned, while avoiding to take any action that might aggravate the situation or increase the chances of injury or loss of life.	Proposal of the technical meeting to accept the Council text.
<ul> <li>of injury or loss of life.</li> <li>9. Where the Rescue</li> <li>Coordination Centre of the third country responsible for the search and rescue region does not respond to the notification transmitted by the participating unit, the latter shall contact the Rescue Coordination</li> <li>Centre of the host Member State unless another Rescue Coordination</li> <li>Centre is better placed to assume coordination of the search and rescue situation.</li> </ul>	7. <i>In cases where</i> the Rescue Coordination Centre of the third country responsible for the search and rescue region does not respond to the notification transmitted by the participating unit, the latter shall contact the Rescue Coordination Centre of the host Member State [].	(f) Where the Rescue Coordination Centre of the third country responsible for the search and rescue region does not respond to the notification transmitted by the participating unit, the latter shall contact the Rescue Coordination Centre of the host Member State unless <i>that participating unit</i> <i>considers that</i> another <i>internationally recognised</i> Rescue Coordination Centre is better [] <i>able</i> to assume coordination of the search and rescue situation.	<u>PRES</u> suggests to keep the Council text.

			<u>PRES draft compromise</u> is to add closing provision of paragraph 2 (to replace the text deleted from Article 9(2): <u>The operational plan may contain</u> <u>details adapted to the circumstances</u> of the sea operation concerned.
10. The participating units shall inform the International Coordination Centre as soon as possible of any contact with the Rescue Coordination Centre and of the course of action taken by them.	8. [] The International Coordination Centre <i>shall be</i> <i>informed</i> as soon as possible of any contact with the Rescue Coordination Centre and of the course of action taken by <i>the participating unit</i> .	Deleted	Proposal of the technical meeting to accept the Council text.
11. Where the ship cannot or can no longer be considered as being in a distress situation or the search and rescue operation has been concluded, the participating unit shall, in consultation with the International Coordination Centre, resume the sea operation.	<b>9.</b> Where the ship cannot or can no longer be considered as being in a distress situation or the search and rescue operation has been concluded, the participating unit shall, in consultation with the International Coordination Centre, resume the sea operation.	3. Where [] the search and rescue <i>situation</i> has been concluded, the participating unit shall, in consultation with the International Coordination Centre, resume the sea operation.	Proposal of the technical meeting to accept the Council text.
Article 10 Disembarkation		Article 10 Disembarkation	
	AM 45		
1. The modalities for the disembarkation of the persons intercepted or rescued in a sea operation shall be set out in the operational plan. Those modalities for disembarkation shall not have the effect of imposing obligations on Member States not participating in	1. The modalities for the disembarkation of the persons intercepted or rescued in a sea operation shall be set out in the operational plan <i>in accordance with Article 4</i> . Those modalities for disembarkation shall not have the effect of imposing obligations on	1. The operational plan may contain details adapted to the circumstances of the sea operation concerned and it shall contain, in accordance with international law and in respect of fundamental rights, at least the following modalities for the disembarkation of	<ul> <li><u>PRES draft compromise (to be read</u> together with the closing phrase added at the end of paragraph 1):</li> <li>1. The operational plan []shall contain, in accordance with international law and in respect of fundamental rights, at least the following modalities for the</li> </ul>



the sea operation unless they expressly provide authorisation for measures to be taken in their territorial sea or contiguous zone in accordance with Article 6(4) or Article 8(2).	Member States not participating in the sea operation unless they expressly provide authorisation for measures to be taken in their territorial sea or contiguous zone in accordance with Article 6(4) or Article 8(2). <i>Modalities for</i> <i>disembarkation may specify that</i> <i>disembarkation does not necessarily</i> <i>imply sole responsibility for the</i> <i>State on whose territory persons</i> <i>rescued at sea are disembarked</i> .	the persons intercepted or rescued in a sea operation [].	disembarkation of the persons intercepted or rescued in a sea operation.
	AM 46		
2. In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(2) or Article 8(1), disembarkation shall take place in the host Member State or in the participating Member State in whose territorial waters or contiguous zone the interception takes place.	2. In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(2) or Article 8(1), disembarkation shall take place in the host Member State or in the participating Member State in whose territorial <i>sea</i> or contiguous zone the interception takes place.	<ul> <li>(a) In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(2) or</li> <li>(4) or in Article 8(1) or (2), disembarkation shall take place in the coastal Member State, without prejudice to Article 6(1)(e).</li> </ul>	Proposal of the technical meeting to accept the Council text and to add the following definition in Article 2(15): <u>15. 'coastal Member State' means a</u> <u>Member State in whose territorial</u> <u>sea or contiguous zone an</u> <u>interception takes place.</u>
	AM 47		
In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(4) or Article 8(2), disembarkation shall take place in the Member State in whose territorial waters or contiguous zone the interception takes place.	In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(4) or Article 8(2), disembarkation shall take place in the Member State in whose territorial <i>sea</i> or contiguous zone the interception takes place.	Deleted	Proposal of the technical meeting to accept the Council.

	AM 48		
	2a. Before disembarkation, the		<u>PRES</u> suggests not to accept EP text.
	persons intercepted or rescued in		
	the sea operation shall receive clear		
	information, in a language which		
	they understand or may reasonably		
	be presumed to understand, on		
	where disembarkation will take		
	place. Particular attention shall be		
	given to unaccompanied minors.		
3. Subject to the application of		(b) Subject to the application of	Proposal of the technical meeting to
Article 4, in the case of interception		Article 4, in the case of interception	accept the Council.
on the high seas as laid down in		on the high seas as laid down in	
Article 7, disembarkation may take		Article 7, disembarkation may take	
place in the third country from which		place in the third country from which	
the ship departed. If that is not		the vessel is assumed to have	
possible, disembarkation shall take		departed. If that is not possible,	
place in the host Member State.		disembarkation shall take place in the	
		host Member State.	

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	AM 49		
4. In the case of search and rescue	4. Subject to the application of	(c) In the case of search and rescue	PRES draft compromise:
situations as laid down in Article 9,	Article 4, in the case of search and	situations as laid down in Article 9	(c) <u>Subject to the application of</u>
the participating units shall cooperate	rescue situations as laid down in	and without prejudice to the	Article 4, in the case of search and
with the responsible Rescue	Article 9, the participating units shall	responsibility of the Rescue	rescue situations as laid down in
Coordination Centre to provide a	cooperate with the responsible	Coordination Centre to identify the	Article 9 and without prejudice to
suitable port or place of safety for the	Rescue Coordination Centre to	most appropriate place for	the responsibility of the Rescue
rescued persons and to ensure their	provide a suitable port or place of	disembarking the rescued persons,	Coordination Centre [] the host
rapid and effective disembarkation.	safety for the rescued persons and to	the host Member State and the	Member State and the participating
	ensure their rapid and effective	participating Member States shall	Member States shall cooperate with
	disembarkation.	cooperate with the responsible	the responsible Rescue Coordination
		Rescue Coordination Centre to	Centre to <i>identify a place of safety</i>
		identify a place of safety and, when	and, when the responsible Rescue
		the responsible Rescue	Coordination Centre designates
		Coordination Centre designates	such a place of safety, they shall
		such a place of safety, they shall	ensure that disembarkation of the
		ensure that the rescued persons are	rescued persons <u>is carried out</u>
		rapidly and effectively disembarked.	rapid <i>ly</i> and effective <i>ly</i> [].
Without prejudice to the		[]	Proposal of the technical meeting to
responsibility of the Rescue			accept the Council.
Coordination Centre, the host			
Member State and the participating			
Member States shall as soon as			
possible ensure that a port or place of			
safety is identified taking into			
account relevant factors, such as			
distances to the closest ports or			
places of safety, risks and the			
circumstances of the case.			

Where the participating unit is not released of its obligation referred to in Article 9(1) as soon as reasonably practicable, taking into account the safety of the rescued persons and that of the participating unit itself, it shall be authorised to disembark the rescued persons in the host Member State.		<i>If it is not possible to arrange for</i> the participating unit <i>to be</i> released of its obligation, referred to in Article 9(1), as soon as reasonably practicable, taking into account the safety of the rescued persons and that of the participating unit itself, it shall be authorised to disembark the rescued persons in the host Member State.	Proposal of the technical meeting to accept the Council.
		These modalities for disembarkation shall not have the effect of imposing obligations on Member States not participating in the sea operation unless they expressly provide authorisation for measures to be taken in their territorial sea or contiguous zone in accordance with Article 6(4) or Article 8(2).	Proposal of the technical meeting to accept the Council.
	AM 50		PRES draft compromiseis to addclosing provision of paragraph 1 (toreplace the text deleted from Article10(1):The operational plan may containdetails adapted to the circumstancesof the sea operation concerned.
5. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of Article 4(1), and the International Coordination Centre shall convey that information	5. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of <i>Article 4</i> , and the International Coordination Centre shall convey that information to the	2. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of Article 4(1), and the International Coordination Centre shall convey that information	Proposal of the technical meeting to accept the Council.



to the competent national authorities. On the basis of that information, the operational plan should determine which follow-up measures may be taken.	competent national authorities. On the basis of that information, the operational plan <i>shall</i> determine which follow-up measures may be taken.	to the competent national authorities of the country where disembarkation takes place. [] The operational plan shall contain the contact details of those competent national authorities, which shall take appropriate follow- up measures.	
	AM 51		
	Article 10a		
	1. Each Member State requires the master of a ship flying its flag to proceed with all possible speed to the rescue of persons in distress at sea and to render all possible assistance to them regardless of their nationality or state or of the circumstances in which these persons are found, provided that he can do so without serious danger to the ship, the crew or the passengers. Members States will not take any measures, including criminal procedures and sanctions, against ship masters who have rescued persons in distress and brought them to a harbour on their territory.		<ul> <li>PRES draft compromise:</li> <li>1<sup>st</sup> sentence is in Council text for Recital 7</li> <li>2<sup>nd</sup> sentence is in PRES draft compromise for Recital 7 (AM 13)</li> </ul>

2. The Agency's Fundamental Rights Strategy and the activities of the Fundamental Rights Officer and the Consultative Forum, as provided for in Article 26a of Regulation 2007/2004, shall apply to sea operations as governed by this Regulation.		<u>PRES</u> suggests not to accept EP text – covered by the Frontex Regulation.
	Article 10a Amendments to Regulation (EC) No 2007/2004	
	Regulation (EC) No 2007/2004 is hereby amended as follows:	
	(1) in Articles 3a(1) and 8e(1), at the end of point (j) respectively, the following phrase is added: ''in that regard the operational plan shall be established in accordance with the provisions of the Regulation (EU) No/2014 of the European Parliament and of the Council of establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Members States of the European Union (OJ L)'';	Proposal of the technical meeting to accept the Council.

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AM 52	
Article 10b	
Specialised branches	
<b>Pursuant to Article 16 of Regulation</b>	<u>PRES</u> suggests not to accept EP text
(EU) No 2004/2007, the Agency	– covered by the Frontex Regulation.
shall evaluate the need to set up	
specialised branches, for all aspects	
relating to the surveillance of	
maritime borders, as operational	
offices in areas subject to significant	
migration flows, including irregular	
migration and in particular in the	
Mediterranean, to improve	
coordination between Member	
States and ensure solidarity and	
responsibility-sharing between	
them, thereby strengthening the	
operational capacity of the Agency.	
 AM 53	
Article 10c	
 Solidarity mechanisms	
1. A Member State faced with a	PRES invites delegations to further
situation of urgent and exceptional	consider Article 10c (1) and (2).
pressure at its external border shall	
 be able to request:	
- the deployment of European	
Border Guard Teams in accordance	
with Article 8a of Regulation (EC)	
No 2007/2004 to provide rapid	
operational assistance to the	
Member State;	

- the Agency for technical and	
operational assistance in	
accordance with Article 8 of	
Regulation (EC) No 2007/2004 in	
order to obtain assistance on	
matters of coordination between	
Members States and/or the	
deployment of experts to support the	
competent national authorities;	
– emergency assistance under	
Article 14 of Regulation XXXX [ISF	
borders] to address urgent and	
specific needs in the event of an	
emergency situation.	
2. A Member State subject to	
strong migratory pressure which	
places urgent demands on its	
reception facilities and asylum	
systems shall be able to request:	
- the European Asylum Support	
Office for the deployment of an	
asylum support team in accordance	
with Article 13 of Regulation (EU)	
No 439/2010 of the European	
Parliament and of the Council to	
provide expertise, in particular in	
relation to interpreting services,	
information on countries of origin	
and knowledge of the handling and	
management of asylum cases;	
munugement of asytum cuses,	

- emergency assistance under	
Article 22 of Regulation XXX	
([Asylum and Migration Fund] to	
address urgent and specific needs in	
the event of an emergency situation;	
- the Commission to check the	PRES suggests not to accept EP text.
willingness of the Member States to	
accommodate asylum seekers.	
3. With a view to the proper	PRES suggests not to accept EP text.
implementation of this Article, the	
Commission shall continuously	
monitor the facilities used for the	
reception of asylum seekers in the	
Member States and, in the cases	
described in this article, once it has	
verified how many places are	
actually available in such facilities,	
shall propose a fair redistribution of	
asylum seekers between Member	
States, in accordance with Article 80	
of the TFEU.	
 AM 54	
Article 10d	
Report	
1. The Agency shall submit a	<u>PRES</u> invites to consider further this
report to the European Parliament,	amendment.
the Council and the Commission on	
the implementation of this	
<b>Regulation by<sup>30</sup></b> * and every two	
 years thereafter.	

OJ: please insert date: two years after entry into force of this Regulation.

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	2. The report shall include a description of the procedures put in place by the Agency to implement this Regulation during sea operations and an assessment of the practical application of this Regulation, including any incidents which may have taken place. It shall provide detailed information on compliance with fundamental rights, and on the impact on those rights, and shall contain an overview of any reasons expressed by intercepted persons, under Article 4(3), and of measures taken subsequently.		
CHAPTER IV		CHAPTER IV	
FINAL PROVISIONS		FINAL PROVISIONS	
		Article 10b	
		Effects of Decision 2010/252/EU	
		Decision 2010/252/EU shall cease to	<u>PRES</u> suggests to keep the Council
		produce effects from the date of	text.
		entry into force of this Regulation.	

Article 11	Article 11	
Entry into force	Entry into force	
This Regulation shall enter into force	This Regulation shall enter into force	
on the twentieth day following that	on the twentieth day following that	
of its publication in the <i>Official</i>	of its publication in the <i>Official</i>	
Journal of the European Union.	Journal of the European Union.	
This Regulation shall be binding in	This Regulation shall be binding in	
its entirety and directly applicable in	its entirety and directly applicable in	
the Member States in accordance	the Member States in accordance	
with the Treaties.	with the Treaties.	
Done at Brussels,	Done at Brussels,	
For the European Parliament	For the European Parliament	
The President	The President	

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