



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 May 2008

9873/08

**FRONT 50
COMIX 436**

"I/A" ITEM NOTE

from :	General Secretariat of the Council
to :	Permanent Representatives Committee/ Council
No. prev. doc.	7811/2/08 REV 2 FRONT 37 COMIX 244
Subject :	Draft Council Conclusions on the management of the external borders of the Member States of the European Union

Following the discussions at the Ministerial Conference on the Challenges of EU External Border Management in Brdo, Slovenia, on 11 and 12 March 2008, the Presidency proposed a text for Council Conclusions on the management of the external borders of the Member States of the European Union.¹

The draft was examined by the Strategic Committee on Immigration, Frontiers and Asylum/Mixed Committee on 1 April 2008 and by JHA Counsellors on 25 April 2008. At the meeting of the Strategic Committee on 20 and 21 May 2008, delegations agreed to the attached draft, subject to scrutiny reservations by some delegations. These scrutiny reservations have subsequently been lifted.

The Permanent Representatives Committee is on this basis asked to invite the Council to adopt the attached text.

¹ 7811/08 FRONT 37 COMIX 244.

**Draft
Council Conclusions**

**on the Management of the External Borders
of the Member States of the European Union**

THE COUNCIL:

- a) Recalling the Hague Programme on strengthening freedom, security and justice in the European Union and related Action Plan, the Global Approach to Migration and the Council Conclusions of 4 December 2006 on integrated border management;
- b) Welcoming the Commission's Communications on the future development of the FRONTEX Agency¹, on preparing the next steps in border management in the European Union², and on examining the creation of a European Border Surveillance System (EUROSUR)³;
- c) Reaffirming the need for better management of external borders with better use of technology, in particular to maintain a high level of security and effectiveness against illegal immigration while facilitating border crossings for EU nationals and *bona fide* travellers;
- d) Confirming the need to continue to further develop a coherent overall concept of the integrated management of the external borders of the Member States of the European Union building on what has already been achieved;
- e) Looking forward to the FRONTEX Management Board's further recommendations arising from the evaluation being undertaken in accordance with Article 33 of the Council Regulation (EC) no 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union;

¹ 6664/08 FRONT 24 COMIX 143

² 6666/08 FRONT 26 COMIX 145

³ 6665/08 FRONT 25 COMIX 144

ADOPTS THE FOLLOWING CONCLUSIONS:

A. Regarding the future development of the FRONTEX Agency:

i) Short term priorities:

1. Welcomes the rapid progress made in making the FRONTEX Agency operational, and recognises the active role of the Agency in the implementation of integrated border management in the EU, and recalls the need to provide the Agency with the necessary resources to allow it to meet its objectives.
2. Requests FRONTEX to implement, in full, the 2008 work programme and to reinforce its role in the framework of its current mandate and decide, on the basis of an assessment of need as well as on a cost benefit approach, on the acquisition and/or leasing/contracting equipment, in particular technical border control equipment, in order to make it available for operations coordinated by FRONTEX.
3. Encourages Member States and FRONTEX to make maximum use of the equipment made available by other Member States in the framework of CRATE and invites FRONTEX to regularly inform the Council on the actual use of this equipment and the measures implemented to ensure its availability.
4. Encourages risk analysis and feasibility studies to be based on reliable information as a prerequisite to the success of a European Border Management system and, in that respect, invites FRONTEX to co-operate closely with other organisations (Europol) and to analyse, together with the Commission and the Council, how to improve the use of ICONet and the potential added-value of a role for the Agency in the management of the ICONet.

5. Invites FRONTEX, with a view to improving its capacity to support operational coordination, to consider, in accordance with Article 16 of Regulation (EC) No 2007/2004, the possible establishment of specialised branches, including the different options which could be envisaged for this purpose, and report back to the Council.
6. Welcomes the intention to explore further the possibilities for developing cooperation, within their existing mandates, between FRONTEX and other authorities involved at the borders including customs, taking into account the Commission's forthcoming study on inter-agency cooperation and the pilot projects to be carried out at European level.
7. Considers that FRONTEX should play a supportive role in the Sch-eval mechanism, with regard to relevant risk analysis for the purpose of evaluation missions and possibly also by providing necessary training to optimise implementation of those missions, and commits to return to this issue again based on the Commission's forthcoming proposal.
8. Stresses the need to reinforce the role of the Agency, within its existing mandate, in promoting operational and other forms of cooperation with third countries on border management, within the framework of the Global Approach to Migration and the relevant external financial instruments.
9. Welcomes the involvement of FRONTEX in training activities and the development of the Common Core Curriculum, and invites it to consider, within its existing mandate, organising additional training courses at European level for Member States and third countries including rules on asylum, the law of the sea and fundamental rights.

ii) Long-term priorities:

10. Encourages a needs-based approach within the overall aim of the integrated management of external borders based on respect for fundamental rights and on the principles of burden-sharing, solidarity and directed to improving effectiveness in preventing illegal immigration, in particular with regard to high-risk areas of the external borders.

11. Confirms that a step-by-step approach, capable of building on progress made so far and addressing any short-comings identified, should continue to be the basis for the further development of the activities of FRONTEX.
12. Welcomes the Commission's intention to explore how the mandate of FRONTEX could be extended to allow for greater possibilities for operational cooperation with third countries and whether other forms of cooperation would be appropriate, as well as for carrying out technical assistance projects.
13. Looks forward to the outcome of the evaluation being undertaken in accordance with Article 33 of Regulation (EC) No 2007/2004 and to a possible subsequent Commission proposal for amending (and consolidating) the Frontex Regulation.

B. Regarding the future challenges of EU External Border Management (entry/exit, RTP, ESTA)

14. Recognises the need to continuously develop and strengthen Member States' response to threats, both existing and new, by making use of available technology as a complementary and essential measure to better managing the external borders and to combat illegal immigration, taking into account the relations between the Member States responsible for certain parts of the EU external border and their non-EU neighbours, while ensuring Europe remains accessible to the world and an attractive place to visit.
15. Emphasises the requirement for new systems to comply in full with Community law, principles on data protection, human rights, international protection and proportionality as well as reflecting a cost benefit approach and added value of technology.

16. Invites the Commission to foster and support the development of pilot projects with a view to assessing the technical and practical feasibility and interoperability of the systems presented in the Communication on preparing the next step in border management in the EU by making full use of the potential of existing initiatives, focusing in particular on their deployment to all types of borders and considering all means of transport. Such pilot projects should, in particular, allow for maximum interoperability and take account of international technical standards.
17. Calls upon the Commission, if considered appropriate, to present by the beginning of the 2010 proposals, accompanied by any necessary impact assessments, for an entry/exit and registered traveller system for third country nationals, applicable to all types of borders on the basis of an evaluation of experiences and best practices in Member States and taking into account the need for synergies and interoperability with other fully operational EU systems (e.g. SIS II, VIS).
18. Welcomes the Commission's intention to launch a study to assess the feasibility and added value of an electronic system for travel authorisation, taking into account the development and experience gained from comparable systems in third countries, in the perspective of further developing the integrated border management strategy of the Union and invites the Commission to present the results of that study to the Council in the first half of 2009 with a view to subsequent legislative proposals if considered appropriate.
19. Recognises, on the basis of the Commission's contributions as well as previous discussions within the Council, a need for an indicative IT Strategy for all European IT systems in the area of Justice and Home Affairs to be adopted by the end of 2009, in order to ensure a coherent approach and increase the efficiency and effectiveness of IT developments.
20. Calls upon the Commission to present, following an impact assessment that provides a substantive analysis of alternatives from a financial, operational and organisational perspective, necessary legislative proposals for the purpose of the long term operational management of SIS II, VIS and EURODAC and potentially other large scale IT systems in the area of Justice and Home Affairs.

C. Regarding the European Border Surveillance System (EUROSUR)

21. Welcomes the progress made on the development of the European Patrols Network based on the MEDSEA and BORTEC studies undertaken by FRONTEX.
22. Welcomes the Commission's intention to launch, in 2008, the work on elaborating guidelines, together with the Member States, for the tasks of and the cooperation between the national coordination centres and FRONTEX.
23. Encourages the Commission to launch immediately a study concerning the key components of the EUROSUR concept, and to analyse concepts of the common application of the surveillance tools and satellites on reliable basis, financial consequences for the introduction of such a system and an assessment to the border surveillance infrastructure in selected third countries on the basis of an evaluation to be carried out by FRONTEX.
24. Invites the Commission to give priority in the programming of the 7th Framework Programme for research and development (security and space themes) to improving the performance and use of surveillance tools.
25. Requests FRONTEX to participate in the development of the EUROSUR concept, within its existing mandate, including by taking forward the studies referred to in the Commission's Communication on examining the creation of a European Border Surveillance System (EUROSUR).
26. Requests the Commission to report back to the Council in the first half of 2009 on progress made in developing EUROSUR on the basis of the preparatory works carried out, in close cooperation with the Member States and FRONTEX, including with regard to the study to be launched by the Commission concerning the key components of the EUROSUR concept.