



**COUNCIL OF
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COVER NOTE

from: Secretary-General of the Senate of the Republic of Italy
date of receipt: 18 May 2010
to: Mr Pierre de BOISSIEU, Secretary-General of the Council of the European Union

Subject: **Proposal for a Regulation of the European Parliament and the Council amending 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 (FRONTEX)**
– Reasoned opinion in accordance with Article 6 of the Protocol (No 2) on the application of the Principles of Subsidiarity and Proportionality

Delegations will find attached a copy of the above letter.

Senate of the Republic
The Secretary-General

Rome, 3 May 2010

Sir,

On behalf of the President of the Senate of the Italian Republic, I enclose herewith the comments of the Committee on European Union Policies on the proposal for a Regulation of the European Parliament and the Council amending 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 (FRONTEX) (COM(2010) 61 final), which was referred to it for a reasoned opinion regarding the application of the principles of subsidiarity and proportionality.

(Complimentary close).

Encl.

Mr Pierre de Boissieu
Secretary-General
of the Council of the European Union

1048 BRUSSELS

**SENATE OF THE REPUBLIC
XVIth TERM**

**RESOLUTION OF THE 14th STANDING COMMITTEE
(European Union Policies)**

(Rapporteur CONTINI)

Approved at the sitting on 29 April 2010

ON THE

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE
COUNCIL AMENDING 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 (FRONTEX)
(COM(2010) 61 final)**

Under Senate Rule 144(1), (5) and (6)

forwarded to the Presidency on 30 April 2010

The 14th Committee, having examined the act in COM(2010) 61 final,

considering that the purpose of FRONTEX is to improve integrated management of external borders, ensure cooperation between the Member States and enforce European law in this area correctly, in the wider framework of European migration policy;

considering that proper management of external borders helps to combat illegal immigration and the problems that entails;

in view of the repeated calls by the southern European countries for strengthening of the external borders;

taking account of the need to clarify the role of FRONTEX in certain areas and to reinforce its operational capabilities through a revision of its legal framework, as advocated by the European Council on several occasions, most recently when adopting the Multiannual Programme for an Area of Freedom, Security and Justice (the Stockholm Programme) on 11 December 2009;

in the light of certain problems with FRONTEX activities, relating to the insufficient technical equipment and human resources made available by the Member States, the lack of precise rules on the management of joint operations, the inefficiency of cooperation with third countries, the way personal data are processed in the context of FRONTEX risk analyses and the need for FRONTEX to be given a more incisive role in return operations;

welcoming the European Commission's initiative to fill the gaps in the present legal framework and to include provisions on fundamental rights in the new regulatory framework;

recalling paragraph 6 of the opinion on the Stockholm Programme issued by the 14th Committee on 18 November 2009, calling for greater operational cooperation between the Member States, especially through strengthening of the FRONTEX Agency, which should be given more staff, more facilities and ultimately more funding to carry out its work, and for the establishment of secondary or special FRONTEX offices in areas where specific operational capabilities are required to manage illegal immigration, particularly the Mediterranean, while reaffirming the need for a European Immigration Office in which all the European countries would join forces to address and

take their fair share in the responsibilities, costs, political consequences and decisions arising from immigration, which currently fall mainly on the countries at Europe's external borders,

within the terms of its remit, approves the proposal, while making the following points:

the proposal appears to comply with the principle of subsidiarity in that the goal of developing integrated management of operational cooperation cannot adequately be achieved by Member States; furthermore, the proposal observes the division of competences established by the Treaty on the Functioning of the European Union, under which the Union and the Member States have joint competence for the area of freedom, security and justice;

the proposal complies with the principle of proportionality, in that its provisions are limited to what is necessary to achieve its objectives;

as far as the legal basis is concerned, given that the proposal is based on Articles 74 and 77(1)(b) and (c) of the Treaty on the Functioning of the European Union and that it is subject to the ordinary legislative procedure, whereby the European Parliament and the European Council have to agree on the same text, Article 77(2)(d) should also be included in the legal basis, for it explicitly provides that any measure necessary for the gradual establishment of an integrated management system for external borders is subject to the ordinary legislative procedure. Under Article 74 alone, the European Parliament would be relegated to a merely advisory role;

with regard to the future staffing of FRONTEX, it is to be hoped that Italy will be well represented, in proportion to its size, its operational contributions and the impact upon it of the problems dealt with by FRONTEX, through the posting of staff who are technically competent and adequately trained in the sensitive issues to be dealt with, in particular protection of human rights.
