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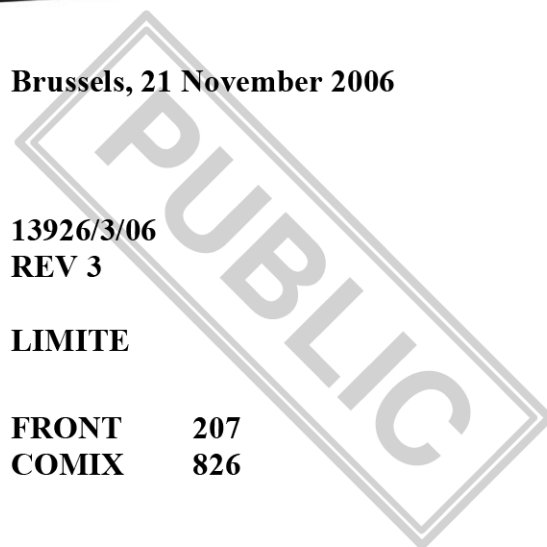
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Subject : Integrated Border Management; Strategy deliberations

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Following the discussions in the Strategic Committee on Immigration, Frontiers and Asylum on 9 November 2006 and the informal experts meeting on 15 November 2006, delegations will find attached a revised draft of the Integrated Border Management Strategy.

The latest changes introduced in the text are shown in **bold** and deletions of text by [...] (see page 14).

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## Integrated border management; Strategy deliberations

### 1. Introduction

Since the integration of the Schengen acquis into the European Union framework and in response to the conclusions of the Tampere European Council of 15 and 16 October 1999, the European Union has taken various important steps on the path towards integrated border management. On 7 December 2001, the Council endorsed the so called "European management concept on border control" (doc. 14570/01 FRONT 69) which provided a basis for further development of the operational cooperation between the Member States.

At its meeting in Laeken on 14 and 15 December 2001, the European Council, in its Conclusion No. 42, stated that “ *Better management of the Union’s external border controls will help in the fight against terrorism, illegal immigration networks and the traffic in human beings. The European Council asks the Council and the Commission to work out arrangements for cooperation between services responsible for external border control and to examine the conditions in which a mechanism or common services to control external borders could be created.*”

In accordance with this conclusion, the European Commission on 7 May 2002 approved a Communication to the Council and the European Parliament concerning “an integrated management of the external borders of the Member States of the European Union”, that included an analysis of the situation in this field, both at operational level and at normative level, and proposed a number of measures and actions to be implemented at European Union level (COM (2002) 233 final).

Following the above-mentioned Commission's Communication, the Council adopted the “Plan for the management of the external borders of the Member States of the European Union (doc. 10019/02) on 13 June 2002, containing 5 main components of a common integrated border management system: a common operational co-ordination and co-operation mechanism, common integrated risk analysis, personnel and inter-operational equipment, a common Corpus of legislation and burden sharing between the Member States and the Union.

After the adoption of this plan, significant measures were taken both at operational and legislative level towards the progressive development of the common integrated border management system , inter alia, by the creation of the Schengen Catalogue on border control, the adoption of the Schengen Borders Code, the drafting of a practical handbook for border guards, the creation of an "External Borders Fund" and, last but not least, the establishment of the FRONTEX-Agency with a special risk analysis unit.

Border management is a security function in which all Member States have a common interest. First and foremost, border management is an area of policing, where security interests have to be met while fully recognizing the commitments in the field of international protection and human rights. It is to be recalled that the responsibility for the control of the external borders remains with the Member States. Since the burden of controlling borders differs considerably between Member States, burden sharing has become a priority issue, as shown by the framework programme on Solidarity and Management of Migration Flows.

To meet these various demands, the EU has established a rigorous acquis, and a set of politically binding requirements for the implementation of border management. These politically binding elements include the Tampere conclusions that require that only specially trained professionals be deployed along the future external border of the EU, and the Schengen Catalogues on the correct implementation of the Acquis. In fact, those instruments created a model of harmonised professional border control that has since been successfully copied in the context of the enlargement process. The result is currently under final evaluation as ten of the Member States are being evaluated with a view to lifting internal border controls as soon as all the preconditions have been met.

The Global Approach to Migration, Priority actions focusing on Africa and the Mediterranean, and the Hague Programme became fundamental priorities for the European Union. Both the Global approach and the Hague Programme list a series of actions to increase operational cooperation between Member States, including on border control.

The EU acquis with regard to border control serves as a standard for some third countries which are assisted by the EU in developing their integrated border management concept. In its Conclusions on Migration of July 2006, the Council recognised the growing importance of migration related issues as an integral part of the external relations of the EU in the framework of a balanced and comprehensive approach to migration. Practice has shown that there is still room for harmonising the positions expressed by EU experts whether acting as evaluators or directly involved. For example, the well-known expression “Integrated Border Management”, even if widely used, has not so far been defined despite several attempts.

The Finnish Presidency considers the further development of the integrated border management concept as a priority issue and, on the basis of the already existing acquis, it will list a set of strategic guidelines.

## **2. Guidelines**

### **2.1. Definition of Integrated Border Management**

The subject of this paper is Integrated Border Management, which consists of the following aspects:

- border control (checks and surveillance) as defined in the Schengen borders code, including relevant risk analysis and crime intelligence
- detection and investigation of cross border crime in coordination with all competent law enforcement authorities
- the four-tier access control model (measures in third countries, cooperation with neighbouring countries, border control, control measures within the area of the free movement including return)<sup>1</sup>
- inter-agency cooperation for border management (border guards, customs, police, national security and other relevant authorities) and international cooperation.
- coordination and coherence of activities of Member States, Institutions and other bodies of the Community and the Union.

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<sup>1</sup> The model in its entirety has been described in the Schengen Catalogue (2002)

Integrated Border Management must cover all relevant threats met at the border. The same threat and risk assessment should be applied for all four tiers of the access control model, especially where the activities of immigration liaison officers, the issuance of visas, border control and control measures within the area of free movement are concerned. Border control is an issue where Community legislation is supposed to lead to uniform implementation. In Member States, national level management (or coordination) is necessary in order to guarantee coherent and concerted border control measures in terms of strategy and operations.

## 2.2. Integrated Border Management - General Principles

As part of a comprehensive EU immigration strategy, the aim of border management is to ensure that entry into and exit from the territory of Member States is made in a regulated and orderly fashion.

Management of the EU's external borders is based on the principles of solidarity, mutual trust and co-responsibility among Member States, and its keystone is full respect for human rights in both its actions and procedures. The border guards of the Member States must be specialised trained professionals, wherever they use confidential police information or touch upon the rights, freedom or integrity of persons or their domestic sphere.

The Member States must develop and maintain operational and managerial resources that allow for credible operational control of their borders and the possibility of conducting and managing joint operations.

On the basis of these principles border management should be carried out with the following general aims:

- Addressing border management as part of the European Union's comprehensive immigration strategy, in coordination with other related policies of the Union;
- Facilitating movement of traffic and ease of controls;

- Avoiding the serious consequences which irregular immigration can have on immigrants who put their physical integrity and lives at risk;
- Preventing offences in the sphere of or related to irregular immigration, as well as enabling action against them;
- Anticipating and preventing action by organised crime groups involved in irregular immigration, as well as facilitating their prosecution;
- Cooperating with countries of origin and transit in the above in the interests of prevention, as well as implementing the cooperation policies and actions required to ensure that irregular immigrants do not leave their countries of origin or transit;
- Fostering cooperation with the countries of origin in identifying irregular immigrants and in effecting return operations;
- Preventing irregular immigration and the entry of persons who do not meet the entry conditions;
- Detecting persons who are running serious risks in their attempts to enter irregularly, and facilitating appropriate action by border services;
- Providing all possible cooperation to facilitate the identification and location of persons who are in an irregular situation in a Member State or who no longer meet the requirements to remain, as well as establishing procedures for expulsion of persons in an irregular situation or for refusing entry;
- Serving as a tool in the combat against terrorism, and organised cross-border crime.

### 2.3. Common Conceptual approach to Border Control

#### *Border Crossing Points (Land, Sea, Air)*

Border checks must be conducted systematically and in accordance with the Schengen Borders Code and other relevant *acquis* as well as with valid non-binding instruments (soft *acquis*) such as the Schengen Catalogues. The activity must be intelligence-led and proportional, always balancing the approaches of human rights and security. Risk analysis and profiling are necessary tools for efficient border checks. Border guards' knowledge on current regulations and irregularities must be actively maintained and updated by regular briefings and vocational training. Each border guard should be connected to vertical and horizontal data flows as a consumer and producer of information.

Airports are an important gateway for traffic into and out of the European Union and the area of free movement. It is necessary to organise controls at airports in a way which fully respects the separation of passenger flows. Also, resources have to be great enough in order to allow for high level controls to be carried out without obstructing the flow of traffic.

Airports are sometimes as an important route for illegal migration. Because of the effect of carrier sanctions, persons obviously lacking proper travel documents are normally not taken onboard, and persons being facilitated through airports often appear at first glance to satisfy all the conditions for entry. This fact suggests that at airports, risk analysis has to meet the highest standards: the knowledge of the border guards must be updated regularly and based on high quality intelligence information; passenger information should be analysed in advance as much as possible ; and risk flights should be recognised in order to implement gate checks on them. There should also be sufficient resources available to permit rapid second line checking and interviewing whenever required.

In many cases, illegal migrants are channelled through several airports. Even if they clearly suspect persons of being involved in facilitation, border guards have little chance to intervene, if the immediate entry and exit conditions are met by the suspected victims or facilitators. Exchange of operational information between Member States' airports should be significantly improved in order to initiate crime investigations. Joint operations could be further developed by FRONTEX, based on the Italian initiative for a network of airport contact points. Such information exchange could be extended beyond Member States.

Functional international cooperation is a prerequisite for successful border crossing point controls. This should cover communication and exchange of security information in the interests of traffic facilitation and of readmission in cases of refused entry or other forms of return. At ports and airports, the international contacts should be extended to reach all connected BCPs in order to facilitate exchange of information, return arrangements and other agreed forms of cooperation.

### *Land Border Surveillance*

Border surveillance at land borders must be conducted systematically and in proportion to the volume of traffic, based on risk analysis. The basic tactical components are detection and interception of those crossing the border illegally. Because the detection range and mobility of units on the ground is often limited, the surveillance of land borders requires substantial human and technical resources in order to be effective and dissuasive. Surveillance concentrated on the immediate vicinity of the border is normally advantageous, because if an instance of border crossing is detected, this is a clear indication of an ongoing violation of law that in most cases requires reaction.

In some border areas, where persons crossing the border illegally would be channelled towards roads and intersections, a spatial approach would seem more effective. Spatial tactics do not provide any exact detection of border violations and therefore, rigorous control based on risk analysis of passing vehicles and persons is required.

In order to cover flexibly all parts of the border and to prevent systematic circumvention of surveillance, it is necessary to carry out operational analysis, planning and management on a regional level above the basic organisational units with a limited area of competence.



## *Sea Border Surveillance*

At sea, because of the open and flat surface, the detection range is normally several or even tens of kilometres. The cost of observation of sea borders can usually be reduced by extensive use of integrated technical surveillance equipment.

Apprehension at sea is often difficult to organise. The time between detection of an approaching vessel and its reaching the coast may be counted in tens of minutes. A credible rapid intervention capacity requires a high density of mobile patrols. Also, apprehension is usually lawful only within the territorial waters of a Member State or, where this has been established, the contiguous zone of a Member State.

The mere detection of a vessel crossing a border is not in itself a sign of unlawful activity. In order to reveal an illegal crossing, the surveillance system must normally cope with a series of tactical functions: detection – identification – risk analysis – (possible) interception – (possible) searching – (possible) apprehension.

All areas with an acknowledged high level of risk of illegal immigration or other threats should be equipped with an integrated coastal surveillance system that covers the whole coast, coastal patrol force and offshore elements (for extension of the observation to the open sea or near coast area of third countries). These assets should be commanded from tactical command centres which have the real time situational image at their disposal as well as the authority and the means to direct the actions of the patrolling units.

International cooperation over sea borders is often more difficult than at BCP:s and land borders. If illegal migrants have travelled a long distance at sea, the source country of an illegal transportation may remain concealed, and thus rapid return after refused entry becomes impossible.

The Sea Border Control Concept in areas of large influx of illegal migrants should embrace the following elements: Surveillance of sea using technical devices - patrolling for detection – Rescuing – Reception by a coastal state – Identification – Registration – Return.

All ships are responsible for rescuing those in distress at sea. The sea areas are divided between coastal states for their respective areas of responsibility.

### *Command structure and coordination*

The pressure arising from illegal migration and other border crossing crimes is constant. Their routes, directions and modus operandi may vary depending on the time and circumstances.

At national level, in order to guarantee flexible and adjustable allocation of resources for border management, it is necessary to organise centralised intelligence, analysis, planning and managerial functions that cover all fields of border control.

For the purpose of land and sea border surveillance, a tactical command function is necessary for real time coordination of observation and risk analysis as well as for the initiation and command of reaction activities. Joint tactical and operational management functions between Member States could, where appropriate, be created and coordinated by FRONTEX. This should, where possible, embrace partner countries, who could be involved in planning, coordination and operations.

### *Cooperation with other relevant actors*

Border control requires cooperation with owners of the infrastructure such as airport authorities, shipping and aviation companies and their agents.

## 2.4. The role of the Council and alignment with other institutions

Integrated Border Management functions are mainly covered by the Community *acquis*. Not everything is covered by Community legislation, however. There are several fields of activity that are guided by political decisions and after that by EU institutions. The enlargement process, external relations, crisis management operations and support to third countries are examples of this. In such fields, the Council's political monitoring and guidelines are relevant.

The Commission has the monopoly on launching legislative initiatives, and according to one of its principal roles it is also responsible for monitoring the implementation of the *acquis*. Based on a Council Regulation, the FRONTEX agency was established in 2005. The principal duties of FRONTEX are to organize operational cooperation between Member States, based on risk analysis. Nevertheless, within the legislative and political framework, the territorial authority and responsibility for border management remains with the Member States. Neither FRONTEX nor the Commission have any operational assets at their disposal. FRONTEX therefore remains dependent on the support of the Member States in this respect.

There is still a clear need for Council involvement in the field of political and strategic monitoring and guidance. The Strategic Committee for Immigration, Frontiers and Asylum (SCIFA), with the assistance of representatives responsible for the issue, will continue to monitor the implementation of Integrated Border Management, and to preparing the necessary decisions for this purpose. This must be done while giving full support to ongoing activities and the mandate of FRONTEX and other institutions and structures (like Europol, Internal security structure and OLAF), not forgetting the workload created by earlier commitments.

## 2.5. Enhanced Transparency of Border Management

To an increasing extent, citizens' faith in the EU requires successfully implemented border management. Since internal border controls were abolished, the control of external borders has become a field of the *acquis*, where the MS activities are directly linked to the security of other Member States to a substantial degree. This makes the Schengen border controls in principle a specific field of *acquis*. Parallel to the work of the institutions, the MS administrations have also made active use of channels through which they have directly exchanged experience and have received information on the operational implementation of border controls.

The Council recognizes that the implementation of border management at all external borders should be made increasingly transparent among all Member States and towards the relevant institutions. For this purpose, it is necessary to support the FRONTEX agency's work in the field of Risk Analysis. Reiterating what was stated in the *Schengen Catalogue on correct implementation of the Schengen acquis* concerning risk analysis, further development and wide adoption of common operational risk analysis methods is requested. The aim must be a common methodology in measuring the operational effect of border control. That should include assessment of the delivered impact against crime and assessment of the scale of potential hidden crime, starting from regional and local level. This method with the full cooperation of national authorities should support the Risk Analysis Network created by Frontex in delivering focused risk analyses with operational value.

As a follow-up to the Hague programme, the Commission will propose an overall evaluation mechanism of the implementation of the JHA *acquis*, and in 2007 it will make a proposal on how the Schengen evaluation mechanism is to continue. Frontex activity will also be evaluated by 2007.

## 2.6. National Inter-agency Cooperation

The threats related to cross-border movements are various. It is advisable to ensure that organisational barriers do not hamper the prevention of crime and terrorism. Border-related risks can be minimised by proper cooperation between the relevant border authorities within individual Member States. Joint crime intelligence activities between border guards, customs, police and the national security authority have been highlighted as a recommended practice by the Schengen evaluation committees.

Also, inter-agency cooperation is necessary in order to guarantee the free flow of traffic.

## 2.7. Resources and Competences for Joint Operations

Resources will be needed in operations managed by FRONTEX at external borders. This will require pooling of experts and material. After the first larger joint operations have been carried out in the Canary Islands and the Mediterranean, the experiences gained will be analysed.

In order to facilitate operational planning and implementation, it is necessary to define the competences, as well as the principles of charges and reimbursements. The Commission has recently proposed a regulation on Rapid Intervention Teams. The discussion of this proposal will contribute to the development of joint resources. The Council could invite the Commission or the relevant working group to draw up a proposal on how to define the eligible cost of resources. The starting-point could be the full additional cost of participation.

## 2.8. External dimension

Cooperation with third countries, in particular, the neighbouring third countries, is a fundamental part of the four tier border control model and is a prerequisite for an efficient integrated management of the external borders. For the purpose of successful control of the external borders of the EU, partnerships should be established with the countries of origin and transit of illegal migration. The aim should be a functional cooperation with partner countries in terms of identification of their nationals, readmission of own nationals and readmission of third country nationals.

It is in the common interest of the EU to contribute to improved border management capacity on both sides of the border, to ensure a proper management of the movement of persons. Furthermore, Member States and institutions should promote permanent professional contacts across the external border. Such contacts should, where possible, also be widened to cover several States within appropriate regions and sub-regions.

Operational border control activities should be encouraged which may take the form of exchanges of liaison officers, joint regional or sub-regional operational activities or improved border control by the partner country itself.

Partner countries should be guided to accept their obligations under international law on search and rescue at sea. [...] Return of the rescued persons may be conducted immediately with the permission of the coastal state, with due respect to the principle of non-refoulement.

In its support and training activities the EU should show flexibility and respect with regard to local conditions in third countries. For example, immediate adoption of the standard of full professionalism is not always feasible. In various projects in third countries, the principle of *gradual improvement of professionalism* could be implemented. Therefore, the requirement of professionalism could in the first stage be introduced for managers, passport controllers and crime investigators. The surveillance elements could also be gradually developed by training only tactical field managers towards professionalism and a full understanding of the rules of international protection and human rights as the first stage.

With regard to the Candidate Countries, the EU has established specific standards for border management. These standards include the binding *acquis* and the politically binding requirements of specialisation and professionalism. These standards must be met by any Candidate State at the latest by the day of accession.

The countries in the accession process should, as soon as possible, begin full cooperation with the EU and the Member States. For example, effective controls of illegal migration from a Candidate State towards a Member State and effective readmission should be seen as an immediate requirement. This should be taken on board in all communications by the EU with Candidate Countries.

### 3. Pilot projects

#### 3.1 Regional Border Management Initiatives

The Baltic Sea Region Border Control Cooperation was started in 1996. A major feature is that it makes it possible to invite EU Member States and third countries to exercise operational activities as equal partners. The good results so far have been acknowledged, and FRONTEX and the Mediterranean States are encouraged to take advantage of this experience and to develop it further under FRONTEX coordination (Medsea project). The formula to be developed could cover all relevant aspects, i.e. joint patrolling, rescuing, reception, identification, registering and return. It is of the utmost importance to commit the cooperating third countries in the area to this form of operational cooperation. For the purpose of facilitating joint operations lead by FRONTEX, regional agreements should be reached concerning the reception by the coastal states of rescued persons taken onboard patrol units. In the case of asylum seekers, the arrangement must guarantee full application of the principles of international protection and non-refoulement.

Additionally, the Brdo-process may be seen as a suitable example of regional cooperation arrangements.

### 3.2. Automatic border checking procedures

A feasibility study on a trusted traveller programme for EU citizens is welcomed.

### 3.3. Joint Use of Liaison Officers

There is evidence of good cooperation - amongst liaison officers, which should be encouraged. As a part of regional initiatives, a coordinated assignment of Liaison Officers can be seen as a potential tool for improved partnership, if so agreed between two or more Member States.

### 3.4. Common Consular Posts

Recalling what was stated on the issue in the Hague programme, the MS are invited to study how consular offices could be jointly utilized in order to improve effectiveness and cost-efficiency in the issuing of visas.

### 3.5. Joint Surveillance and Investigation Operations

The border guard authorities witness and investigate daily such illegal activities that obviously might be related to serious cross-border crime (especially trafficking of human beings, THB). An example of such an event is a person carrying several passports into or out from the EU territory. In most cases, only minor sanctions will follow, because there will be no evidence of any serious crime. In order to improve the combat of trafficking of human beings in particular, incidents reported at the border that potentially relate to THB, should be extended to other MS authorities. For this purpose, a clearing house system could be managed by the Frontex or between selected MS. All MS should improve their readiness for exchange of information and for cross border surveillance at short notice, triggered by an event detected by border guards at the border.



### 3.6. Entry-exit Database

The Commission has in its communication 402/2006 (Illegal migration) proposed the establishment of an entry-exit database. The idea is welcomed and further studies by the Commission invited.

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