

COUNCIL OF THE EUROPEAN UNION

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5822/14

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NOTE

From:	Presidency
To:	Delegations
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

Following the meeting of JHA Counsellors/Mixed Committee on 27 January 2014 on the basis of doc. 5612/14, a third informal trilogue with the European Parliament and the Commission took place on 29 January 2014.

The four-column table resulting from the above meeting (also including some subsequent to this trilogue compromise proposals from the Presidency) is set out in the Annex to this Note.

Significant progress was achieved at the aforementioned informal trilogue. The Presidency considers that the compromise tentatively agreed upon so far on most of the outstanding issues in the context of this proposal caters for the most important concerns of the delegations.

5822/14 GK/cr 1
DG D 1 A **LIMITE EN**

In particular, provisional agreement has been reached, among other issues, on the search and rescue provisions, on the issues related to disembarkation (with the exception of Parliament's amendment 48 regarding information on where disembarkation will take place), and on the principle of solidarity.

Furthermore, significant progress has been made in relation to the interception provisions. However, no tentative compromise has been reached so far in relation to: i) the special medical needs of the intercepted persons, ii) the suggestion of the Parliament to transfer point (c) of Articles 6(1) and 7(1) regarding identification measures under the list of possible enforcement measures, and iii) the warning and ordering of the vessel, which is on the high seas not to enter the territorial sea, provided for under Art. 7(1a)(b).

Significant progress was also made regarding the issues related to the principle of non-refoulement. A tentative compromise is yet to be reached on the issues provided for under Art. 4(3) as regards identification of the intercepted persons, assessment of their personal situation and information on their disembarkation, as well as on the possibility of exchange of personal data with third countries, pursuant to Art. 4(4a).

The Presidency is of the opinion that the above outstanding issues could be solved as part of an overall compromise with the European Parliament on the basis of the draft suggestions it submits in the present document to the JHA Counsellors/Mixed Committee for their meeting on 3 February 2014.

Furthermore, the Presidency intends to submit the item to the Permanent Representatives Committee on 5 February 2014, with a view to obtaining an amended mandate for concluding an overall compromise agreement with the co-legislator at the next informal trilogue, scheduled for 11 February 2014.

5822/14 GK/cr 2

DG D 1 A LIMITE

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	Agreement on:
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 fundamental rights should be a unauthorised border crossings, to ensuring the protection and saving priority. The purpose of border counter cross-border criminality and counter cross-border criminality and of lives. The purpose of border to apprehend or take other measures surveillance is to prevent to apprehend or take other measures surveillance is to prevent against those persons who have unauthorised border crossings, to against those persons who have unauthorised border crossings, to crossed the border in an irregular counter cross-border criminality and crossed the border in an irregular counter cross-border criminality and manner. Border surveillance should manner. Border surveillance should to apprehend or take other measures to apprehend or take other measures be effective in preventing and against those persons who have be effective in preventing and against those persons who have discouraging persons from crossed the border in an irregular discouraging persons from crossed the border in an irregular manner. Border surveillance should circumventing the checks at border manner. Border surveillance should circumventing the checks at border crossing points. To this end, border be effective in preventing and crossing points. To this end, border be effective in preventing and surveillance is not limited to the discouraging persons from surveillance is not limited to the discouraging persons from detection of attempts at irregular circumventing the checks at border detection of attempts at irregular circumventing the checks at border crossing points. To this end, border border crossing but equally extends crossing points. To this end, border border crossing but equally extends to steps such as intercepting ships surveillance is not limited to the to steps such as intercepting vessels surveillance is not limited to the suspected of trying to gain entry to detection of attempts at irregular suspected of trying to gain entry to detection of attempts at irregular the Union without submitting to border crossing but equally extends the Union without submitting to border crossing but equally extends border checks, as well as to steps such as intercepting ships border checks, as well as to steps such as intercepting vessels arrangements intended to address suspected of trying to gain entry to arrangements intended to address suspected of trying to gain entry to the Union without submitting to situations such as search and rescue the Union without submitting to situations such as search and rescue that may arise during a border that may arise during a border border checks, as well as border checks, as well as surveillance operation at sea and arrangements intended to address surveillance operation at sea and arrangements intended to address arrangements intended to bring such situations such as search and rescue arrangements intended to bring such situations such as search and rescue an operation to a successful an operation to a successful that may arise during a border that may arise during a border conclusion. conclusion. surveillance operation at sea and surveillance operation at sea and arrangements intended to bring such arrangements intended to bring such an operation to a successful an operation to a successful conclusion. conclusion. AM2(1a) Article 80 of the Treaty on the Agreement on: Functioning of the European Union The policies of the Union in border (TFEU) provides that the policies of management, asylum and the Union set out in Chapter 2 on immigration and their

border checks, asylum and 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.		implementation should be governed by the principle of solidarity and fair sharing of responsibility among Member States provided for in Article 80 TFEU. Wherever necessary, Union acts adopted in the framework of these policies are to contain appropriate measures to give effect to that principle and promote burden-sharing including through the transfer, on a voluntary basis, of beneficiaries of international protection.
	(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 ¹ . Investigative and punitive measures are dealt with under national criminal law and in the	Agreement on: (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 ² . Investigative and punitive measures are dealt with under

OJ L 349, 25.11.2004, p. 1. OJ L 349, 25.11.2004, p. 1.

5822/14

ANNEX

²

		existing instruments of mutual legal assistance in the field of judicial cooperation in criminal matters in the Union.	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		Agreement not to take up this AM in
	sharing system contributes to the		view of the compromise package on
	overburdening of the Member States		solidarity
	bordering the Mediterranean Sea.		
	AM 4		
(2) The European Agency for the	(2) The European Agency for the	(2) The [] Agency [] is	Agreement on:
Management of Operational	Management of Operational	responsible for the coordination of	(2) The [] Agency [] is
Cooperation at the External Borders	Cooperation at the External Borders	operational cooperation between	responsible for the coordination of
of the Member States of the	of the Member States of the	Member States in the field of	operational cooperation between
European Union ('the Agency')	European Union ('the Agency')	management of the external borders,	Member States in the field of
established by Council Regulation	established by Council Regulation	including as regards border	management of the external borders,
(EC) No 2007/2004 of 26 October	(EC) No 2007/2004 of 26 October	surveillance. The Agency is also	including as regards border
2004 ³ is responsible for the	2004 ¹³ is responsible for the	responsible to assist Member States	surveillance. The Agency is also
coordination of operational	coordination of operational	in circumstances requiring increased	responsible to assist Member States
cooperation between Member States	cooperation between Member States	technical assistance at the external	in circumstances requiring increased
in the field of management of the	in the field of management of the	borders, taking into account that	technical assistance at the external
external borders, including as regards	external borders, including as regards	some situations may involve	borders, taking into account that
border surveillance. The Agency is	border surveillance. The Agency is	humanitarian emergencies and rescue	some situations may involve
also responsible to assist Member	also responsible to assist Member	at sea. Specific rules with regard to	humanitarian emergencies and rescue
States in circumstances requiring	States in circumstances requiring	border surveillance activities carried	at sea. Specific rules with regard to
increased technical assistance at the	increased technical assistance at the	out by maritime, <i>land</i> and aerial units	border surveillance activities carried
external borders, taking into account	external borders, taking into account	of one Member State at the sea	out by maritime, <i>land</i> and aerial units
that some situations may involve	that some situations [] involve	border of other Member States or on	of one Member State at the sea
humanitarian emergencies and rescue	humanitarian emergencies and rescue	the high seas in the context of	border of other Member States or on

³ OJ L 349, 25.11.2004, p. 1.

 5822/14
 GK/cr
 4

 ANNEX
 DG D 1 A
 LIMITE
 EN

at sea. Specific rules with regard to border surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.	at sea. Specific rules with regard to border surveillance activities carried out by maritime and aerial units of one Member State at the sea border of other Member States or on the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.	operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.	the high seas in the context of operational cooperation coordinated by the Agency are necessary to further strengthen such cooperation.
Turther strengthen such cooperation.	AM 5		
	(2a) Cooperation with neighbouring third countries is crucial to prevent unauthorised border crossings, to counter crossborder 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 and third countries.		Agreement on: (2a) Cooperation with neighbouring third countries is crucial to prevent unauthorised border crossings, to counter cross- border criminality and to avoid loss of life at sea. 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 and third countries. The Member States and the Agency should comply with norms and standards at least equivalent to those set by Union legislation also when the cooperation with third countries

AM 6 The establishment of the

European Border Surveillance 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. 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 crossborder crime 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.

- 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. 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 crossborder 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. Member States and the Agency should introduce in
- territorial sea of those countries. (3) The *[...]* European Border Agreement on:
- Surveillance System (EUROSUR) established by Regulation (EU) No *1052/2013* of the European Parliament and of the Council of 22 October 2013⁴ should strengthen the information exchange and operational cooperation between Member States 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 [...] preventing and combating illegal immigration [...] and cross-border crime and [...] contributing to ensuring the protection and saving 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.
- (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*⁵ should strengthen the information exchange and operational cooperation between Member States 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, preventing and combating illegal immigration and cross-border crime and contributing to ensuring the protection and saving 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 in accordance with that Regulation.

takes place on the territory or the

5822/14 GK/cr DG D1A **ANNEX**

OJ L 295, 6.11.2013, p. 11. OJ L 295, 6.11.2013, p. 11.

	EUROSUR all relevant information collected during these operations.		
		(3a) This Regulation replaces 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 the Agency which was annulled by the Court of Justice of the European Union ('the Court') by its judgment of 5 September 2012 in case C- 355/10.	Agreement on: (3a) This Regulation replaces 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 the Agency which was annulled by the Court of Justice of the European Union ('the Court') by its judgment of 5 September 2012 in Case C- 355/10.
		(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.	Agreement on: (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 ceases to produce effects.
	AM 7		1 10
(4) During border surveillance operations, Member States and the Agency should respect their obligations under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on	(4) During border surveillance operations, Member States and the Agency should respect their obligations, <i>including the principle of non-refoulement</i> , under the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at	(4) During border surveillance operations <i>at sea</i> , Member States [] should respect their <i>respective</i> obligations under <i>International Law</i> , <i>in particular</i> the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the	Linked with Recital (5a) and Article 4. Agreement on: (4) During border surveillance operations at sea, Member States should respect their respective obligations under international law, in particular the United Nations

Maritime Search and Rescue, the Sea, the International Convention on International Convention on Convention on the Law of the Sea. United Nations Convention against Maritime Search and Rescue, the Maritime Search and Rescue, the the International Convention for the Safety of Life at Sea, 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 International Convention on Migrants by Land, Sea and Air, the its Protocol against the Smuggling of its Protocol against the Smuggling of Maritime Search and Rescue, the Convention relating to the Status of Migrants by Land, Sea and Air, the Migrants by Land, Sea and Air, the **United Nations Convention against** Refugees, the European Convention Convention relating to the Status of Convention relating to the Status of Transnational Organized Crime and for the Protection of Human Rights Refugees, the European Convention Refugees, the European Convention its Protocol against the Smuggling of and Fundamental Freedoms, the for the Protection of Human Rights for the Protection of Human Rights Migrants by Land, Sea and Air, the International Covenant on Civil and and Fundamental Freedoms, the and Fundamental Freedoms, the Convention relating to the Status of Political Rights, the United Nations International Covenant on Civil and International Covenant on Civil and Refugees, the European Convention Convention against Torture and Political Rights, the United Nations Political Rights, the United Nations for the Protection of Human Rights Other Cruel, Inhuman or Degrading Convention against Torture and Convention against Torture and and Fundamental Freedoms, the Treatment or Punishment and other Other Cruel, Inhuman or Degrading Other Cruel, Inhuman or Degrading International Covenant on Civil and Treatment or Punishment, the UN Treatment or Punishment and other Political Rights, the United Nations relevant international instruments. Convention on the Right of the Convention against Torture and Other relevant international instruments **Child** and other relevant international Cruel, Inhuman or Degrading Treatment or Punishment, the UN instruments. Convention on the Right of the **Child** and other relevant international instruments. (4a) When coordinating border Agreement on: surveillance operations at sea, the (4a) When coordinating border Agency should fulfil its tasks in full surveillance operations at sea, the compliance with the relevant Union Agency should fulfil its tasks in full law, including the Charter of compliance with the relevant Union Fundamental Rights of the law, including the Charter of European Union and relevant Fundamental Rights of the international law, in particular as European Union and relevant referred to in Recital (4). international law, in particular as referred to in Recital (4).

In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)⁶ and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, nondiscriminatory and it should fully respect human dignity, fundamental rights and the rights of refugees and asylum seekers, including the principle of non-refoulement. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status⁷ with regard to

In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, nondiscriminatory and it should fully respect human dignity, fundamental rights, [...] the rights of refugees and asylum seekers *and* the principle of non-refoulement. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of *Directive* 2013/32/EU of the European **Parliament and of the Council**⁸ with regard to applications for international protection made in the territory, including at the border, in

AM8

In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, nondiscriminatory and it should fully respect human dignity, fundamental rights and the rights of refugees and asylum seekers, including the principle of *non-refoulement*. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international

Agreement on:

(5) In accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)¹¹ and general principles of Union law, any measure taken in the course of a surveillance operation should be proportionate to the objectives pursued, nondiscriminatory and it should fully respect human dignity, fundamental rights and the rights of refugees and asylum seekers, including the principle of *non-refoulement*. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of Directive 2013/32/EU of the European Parliament and of the *Council*¹² with regard to applications for *international protection* made in

9

⁶ OJ L 105, 13.4.2006, p. 1.

OJ L 326, 13.12.2005, p. 13.

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).

OJ L 105, 13.4.2006, p. 1.

applications for asylum made in the	the territorial waters or in the transit	protection (recast) ¹⁰ 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.	
			Agreement to add a new Recital after Recital 5:
			(5a) The application of this
			Regulation should be without
			prejudice to Directive 2011/36 of the
			European Parliament and the
			Council on preventing and
			combating trafficking in human
			beings and protecting its victims, in
			particular as regards assistance to
			be given to victims of trafficking in
			human beings.
	AM 9		-
	(5a) This Regulation should be		Agreement on:
	applied in full compliance with the		(5b) 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 of
	or forced to enter, a country where		Fundamental Rights of the
	there is a real risk that he or she		European Union and as interpreted
	would be subjected to the death		by the case law of the Court and of
	penalty, torture or other inhuman or		the European Court of Human
	degrading treatment or punishment		Rights.

OJ L 105, 13.4.2006, p. 1.

 5822/14
 GK/cr
 10

 ANNEX
 DG D 1 A
 LIMITE
 EN

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).

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.	In accordance with that principle, no person should be disembarked in, forced to enter, conducted to or otherwise handed over to the authorities of a country where there is a serious risk that he or she would be subjected to the death penalty, torture, persecution 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 the principle of non-refoulement.
AM 10	of the principle of non-rejoutement.
(5b) The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from their international obligations under international and Union law under the principle of non-refoulement.	Agreement not to take up this Recital.

The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from those obligations whenever they are aware or ought to be aware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of nonrefoulement.

The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from *their* obligations under international and Union law, in particular as regards compliance with the principle of *non-refoulement*, whenever they are aware or ought to be aware that [...] deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country do not make it possible to conduct an individual, fair and effective assessment or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of nonrefoulement. *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 11

The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from those obligations whenever they are aware or ought to be aware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of nonrefoulement.

Agreement on:

(6) The possible existence of an arrangement between a Member State and a third country cannot absolve Member States from *their* obligations under international and Union law, in particular as regards compliance with the principle of nonrefoulement, whenever they are aware or ought to be aware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that third country amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment or where they are aware or ought to be aware that this third country is engaged in practices in contravention of the principle of nonrefoulement.

	AM 12		
	(6a) In the spirit of Article 80 of the TFEU, application of Regulation (EU) No 604/2013 of the European Parliament and of the Council ¹³ should not prevent Member States from applying, on a		Agreement not to take up this AM in view of the compromise package on solidarity
	voluntary basis, a system of relocation of migrants and asylum		
	seekers.		
	AM 13		
(7) During a border surveillance	(7) During a border surveillance	(7) During a border surveillance	Agreement on:
operation at sea, a situation may	operation at sea, a situation may	operation at sea, a situation may	(7) During a border surveillance
occur where it will be necessary to	occur where it will be necessary to	occur where it will be necessary to	operation at sea, a situation may
render assistance to persons found in	render assistance to persons found in	render assistance to persons found in	occur where it will be necessary to
distress. In accordance with	distress. In accordance with	distress. In accordance with	render assistance to persons found in
international law, every State must	international law, every State must	international law, every State must	distress. In accordance with
require the master of a ship flying its	require the master of a ship flying its	require the master of a <i>vessel</i> flying	international law, every State must
flag, in so far as he can do so without	flag, in so far as he can do so without	its flag, in so far as he can do so	require the master of a <i>vessel</i> flying
serious danger to the ship, the crew	serious danger to the ship, the crew	without serious danger to the <i>vessel</i> ,	its flag, in so far as he can do so
or the passengers, to render	or the passengers, to render	the crew or the passengers, to render	without serious danger to the <i>vessel</i> ,
assistance to any person found at sea	assistance <i>proactively and without</i>	assistance to any person found at sea	the crew or the passengers, to render
in danger of being lost and to	delay to any person found at sea in	in danger of being lost and to	assistance without delay to any
proceed with all possible speed to the	danger of being lost and to proceed	proceed with all possible speed to the	person found at sea in danger of
rescue of persons in distress. Such	with all possible speed to the rescue	rescue of persons in distress. Such	being lost and to proceed with all
assistance should be provided	of persons in distress. Such	assistance should be provided	possible speed to the rescue of
regardless of the nationality or status	assistance should be provided	regardless of the nationality or status	persons in distress. Such assistance
of the persons to be assisted or of the	regardless of the nationality or status	of the persons to be assisted or of the	should be provided regardless of the

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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circumstances in which they are found.	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 sea.	circumstances in which they are found.	nationality or status of the persons to be assisted or of the circumstances in which they are found. The shipmaster and crew should not face criminal sanctions for the sole reason of having rescued persons in distress at sea and brought them to a place of safety.
(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 port or a place of safety.		(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 place of safety.	Agreement on: (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 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,		Agreement not to take up this Recital.

	the International Coordination Centre should appoint the responsible Rescue Coordination Centre.		
		(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 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.	Agreement on: (8a) When the operational area of a sea operation includes the search and rescue region of a third country, the establishment of communication channels with the search and rescue authorities of that third country should be sought 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.
	AM 15		
	(8b) When disembarking		Agreement not to take up this AM in
	intercepted or rescued persons in a		view of the compromise package on
	Member State, the Agency and its		solidarity
	Member States should fully respect		
	the principle of solidarity and fair		
	responsibility sharing in accordance		
	with Article 80 of the TFEU.		
	AM 16		
(9) Pursuant to Regulation (EC)	(9) Pursuant to Regulation (EC)	(9) Pursuant to Regulation (EC)	Agreement on:
No 2007/2004, border surveillance	No 2007/2004, border surveillance	No 2007/2004, border surveillance	(9) Pursuant to Regulation (EC)
operations coordinated by the	operations coordinated by the	operations coordinated by the	No 2007/2004, border surveillance
Agency are conducted in accordance	Agency are conducted in accordance	Agency are conducted in accordance	operations coordinated by the Agency
with an operational plan.	with an operational plan.	with an operational plan.	are conducted in accordance with an
Accordingly, as regards sea	Accordingly, as regards sea	Accordingly, as regards sea	operational plan. Accordingly, as

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 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.

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 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.

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 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.

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 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.

The operational plan should include procedures ensuring that persons with international protection needs, victims of trafficking in human beings, unaccompanied minors and other vulnerable persons are identified and provided with appropriate assistance, including access to international protection.

	T		
(10) The practice under Regulation		(10) The practice under Regulation	Identical.
(EC) No 2007/2004 is that for each		(EC) No 2007/2004 is that for each	
sea operation, a coordination		sea operation, a coordination	
structure is established within the		structure is established within the	
host Member State, composed of		host Member State, composed of	
officers from the host Member State,		officers from the host Member State,	
guest officers and representatives of		guest officers and representatives of	
the Agency, including the		the Agency, including the	
Coordinating Officer of the Agency.		Coordinating Officer of the Agency.	
This coordination structure, usually		This coordination structure, usually	
called International Coordination		called International Coordination	
Centre, should be used as a channel		Centre, should be used as a channel	
for communication between the		for communication between the	
officers involved in the sea operation		officers involved in the sea operation	
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	Agreement on:
fundamental rights and observes the	fundamental rights and observes the	fundamental rights and observes the	(11) This Regulation respects the
principles recognised by the Charter	principles recognised by Articles 2	principles recognised by the Charter	fundamental rights and observes the
of Fundamental Rights of the	and 6 of the Treaty on European	of Fundamental Rights of the	principles recognised by Articles 2
European Union, notably the right to	Union (TEU) and by the Charter of	European Union, notably the right to	and 6 of the Treaty on European
life, human dignity, prohibition of	Fundamental Rights of the European	life, human dignity, prohibition of	Union and by the Charter of
torture and of inhuman or degrading	Union, in particular respect for	torture, of persecution and of	Fundamental Rights of the European
treatment or punishment, right to	human dignity, the right to life, the	inhuman or degrading treatment or	Union, in particular respect for
liberty and security, non-refoulement,	prohibition of torture and of inhuman	punishment, right to liberty and	human dignity, the right to life, the
non-discrimination, the right to an	or degrading treatment or	security, non-refoulement, non-	prohibition of torture and of inhuman
effective remedy, the right to asylum	punishment, the prohibition of	discrimination, the right to an	or degrading treatment or
and the rights of the child.	trafficking in human beings, the	effective remedy, the right to asylum	punishment, the prohibition of
	right to liberty and security, the right	and the rights of the child.	trafficking in human beings, the
	to the protection of personal data,		right to liberty and security, the right
	the right to asylum and to protection		to the protection of personal data,
	against removal and expulsion, non-		the right to asylum and to protection

	refoulement, non-discrimination, the right to an effective remedy [] and the rights of the child. This 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.		against removal and expulsion, non-refoulement, non-discrimination, the right to an effective remedy and the rights of the child. This Regulation should be applied by Member States and the Agency in accordance with those rights and principles.
(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		Agreement not to take up this Recital.
	out the possibility of determining the		
	details of joint operations at sea in		
	specific operational plans, taking		
	into account the specific		
	requirements and characteristics of		
	the context in which the Member		
	States are operating.		
(13) In accordance with Articles 1		(13) In accordance with Articles 1	Agreement on:
and 2 of Protocol No 22 on the		and 2 of <i>the</i> Protocol (No 22) on the	(13) In accordance with Articles 1
position of Denmark, annexed to the		position of Denmark, annexed to the	and 2 of <i>the</i> Protocol (No 22) on the
Treaty on European Union and to the		Treaty on European Union and to the	position of Denmark, annexed to the
Treaty on the Functioning of the		Treaty on the Functioning of the	Treaty on European Union and to the
European Union, Denmark is not		European Union, Denmark is not	Treaty on the Functioning of the
taking part in the adoption of this		taking part in the adoption of this	European Union, Denmark is not
Regulation and is not bound by it or		Regulation and is not bound by it or	taking part in the adoption of this
subject to its application. Given that		subject to its application. Given that	Regulation and is not bound by it or
this Regulation builds upon the		this Regulation builds upon the	subject to its application. Given that
Schengen acquis, under Title V of		Schengen <i>acquis</i> , [] Denmark	this Regulation builds upon the
Part Three of the Treaty on the		shall, in accordance with Article 4 of	Schengen <i>acquis</i> , [] Denmark
Functioning of the European Union,		that Protocol, decide within a period	shall, in accordance with Article 4 of
Denmark shall, in accordance with		of six months after the [] Council	that Protocol, decide within a period
Article 4 of that Protocol, decide		has decided on this Regulation	of six months after the [] Council
within a period of six months after		whether it will implement it in its	has decided on this Regulation
the date of adoption of this		national law.	whether it will implement it in its
Regulation whether it will implement			national law.
it in its national law			

(14) As regards Iceland and	(14) As regards Iceland and	Agreement on:
Norway, this Regulation constitutes a	Norway, this Regulation constitutes a	(14) As regards Iceland and
development of the provisions of the	development of the provisions of the	Norway, this Regulation constitutes a
Schengen <i>acquis</i> within the meaning	Schengen <i>acquis</i> within the meaning	development of the provisions of the
of the Agreement concluded by the	of the Agreement concluded by the	Schengen <i>acquis</i> within the meaning
Council of the European Union and	Council of the European Union and	of the Agreement concluded by the
the Republic of Iceland and the	the Republic of Iceland and the	Council of the European Union and
Kingdom of Norway concerning the	Kingdom of Norway concerning the	the Republic of Iceland and the
association of those two States with	latters' association with the	Kingdom of Norway concerning the
the implementation, application and	implementation, application and	latters' association with the
development of the Schengen	development of the Schengen	implementation, application and
acquis ¹⁴ which fall within the area	acquis ¹⁶ which fall within the area	development of the Schengen
referred to in Article 1, point A, of	referred to in Article 1, point A, of	acquis ¹⁸ which fall within the area
Council Decision 1999/437/EC ¹⁵ on	Council Decision 1999/437/EC	referred to in Article 1, point A, of
certain arrangements for the	of 17 May 1999 ¹⁷ on certain	Council Decision 1999/437/EC
application of that Agreement.	arrangements for the application of	of 17 May 1999 ¹⁹ on certain
	that Agreement.	arrangements for the application of
		that Agreement.
(15) As regards Switzerland, this	(15) As regards Switzerland, this	Agreement on:
Regulation constitutes a development	Regulation constitutes a development	(15) As regards Switzerland, this
of the provisions of the Schengen	of the provisions of the Schengen	Regulation constitutes a development
acquis within the meaning of the	acquis within the meaning of the	of the provisions of the Schengen
Agreement between the European	Agreement between the European	acquis within the meaning of the
Union, the European Community and	Union, the European Community and	Agreement between the European
the Swiss Confederation concerning	the Swiss Confederation <i>on</i> the	Union, the European Community and

¹⁴ OJ L 176, 10.7.1999, p. 36.

¹⁵ OJ L 176, 10.7.1999, p. 31. *OJ L 176, 10.7.1999, p. 36.*

¹⁶

¹⁷

OJ L 176, 10.7.1999, p. 31. OJ L 176, 10.7.1999, p. 36. 18

¹⁹ OJ L 176, 10.7.1999, p. 31.

the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis, ²⁰ which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in	Swiss Confederation's association with the implementation, application and development of the Schengen acquis; which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC [] ²³	the Swiss Confederation <i>on</i> the Swiss Confederation's <i>association</i> with the implementation, application and development of the Schengen <i>acquis</i> ; which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in
conjunction with Article 3 of Council Decision 2008/146/EC of 28 January	Decision 2000/140/EC []	conjunction with Article 3 of Council Decision 2008/146/EC [] ²⁵
2008 on the conclusion of that		
Agreement on behalf of the European Community. 21		
(16) As regards Liechtenstein, this	(16) As regards Liechtenstein, this	A area amont on
1 . /		Agreement on: (16) As regards Liechtenstein, this
Regulation constitutes a development of the provisions of the Schengen	Regulation constitutes a development of the provisions of the Schengen	Regulation constitutes a development
acquis within the meaning of the	acquis within the meaning of the	of the provisions of the Schengen
Protocol signed between the	Protocol [] between the European	acquis within the meaning of the
European Union, the European	Union, the European Community, the	Protocol [] between the European
Community, the Swiss Confederation	Swiss Confederation and the	Union, the European Community, the
		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	Principality of Liechtenstein on the
of Liechtenstein to the Agreement	Liechtenstein to the Agreement	accession of the Principality of
between the European Union, the	between the European Union, the	Liechtenstein to the Agreement
European Community and the Swiss	European Community and the Swiss	between the European Union, the
Confederation on the Swiss	Confederation on the Swiss	European Community and the Swiss

²⁰ OJ L 53, 27.2.2008, p. 52.

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OJ L 53, 27.2.2008, p. 1. OJ L 53, 27.2.2008, p. 52. OJ L 53, 27.2.2008, p. 52. OJ L 53, 27.2.2008, p. 1. OJ L 53, 27.2.2008, p. 52. 24 25

OJ L 53, 27.2.2008, p. 1.

Confederation's association with the	Confederation's association with the	Confederation on the Swiss
implementation, application and	implementation, application and	Confederation's association with the
development of the Schengen <i>acquis</i> ,	development of the Schengen	implementation, application and
which fall within the area referred to	acquis ²⁸ , which fall within the area	development of the Schengen
in Article 1, point A, of Decision	referred to in Article 1, point A, of	acquis ³¹ , which fall within the area
1999/437/EC ²⁶ read in conjunction	Decision 1999/437/EC ²⁹ read in	referred to in Article 1, point A, of
with Article 3 of Council Decision	conjunction with Article 3 of Council	Decision 1999/437/EC ³² read in
2011/350/EU of 7 March 2011 on the	Decision 2011/350/EU [] ³⁰	conjunction with Article 3 of Council
conclusion of that protocol on behalf		Decision 2011/350/EU [] ³³
of the European Union. ²⁷		
(17) This Regulation constitutes a	(17) This Regulation constitutes a	Identical.
development of the provisions of the	development of the provisions of the	
Schengen <i>acquis</i> in which the United	Schengen acquis 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. ³⁴ The United Kingdom is	acquis. 35 The United Kingdom is	

OJ L 176, 10.7.1999, p. 31.

OJ L 160, 18.6.2011, p. 19.

²⁸ OJ L 160, 18.5.2011, p. 21.

²⁹ OJ L 176, 10.7.1999, p. 31. 30 OJ L 160, 18 65 2011, p. 19

³⁰ OJ L 160, 18.65.2011, p. 19. 31 OJ L 160, 18.5.2011, p. 21.

³² OJ L 176, 10.7.1999, p. 31.

³³ OJ L 160, 18.6<u>5</u>.2011, p. 19.

OJ L 131, 1.6.2000, p. 43.

OJ L 131, 1.6.2000, p. 43.

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 <i>acquis</i> 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> . ³⁶ Ireland is	Schengen <i>acquis</i> . ³⁷ 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	
subject to its application.	subject to its application.	
HAVE ADOPTED THIS	HAVE ADOPTED THIS	
REGULATION:	REGULATION:	
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	

36

OJ L 64, 7.3.2002, p. 20. OJ L 64, 7.3.2002, p. 20. 37

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;	
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'	Agreement on:
means a Member State which	means a Member State which	means a Member State which	4. 'participating Member State'
participates in a sea operation by	participates in a sea operation by	participates in a sea operation by	means a Member State which
providing assets or human resources,	providing technical equipment or	providing [] technical equipment,	participates in a sea operation by
but which is not a host Member	border guards and other staff, but	border guards deployed as part of	providing [] technical equipment,
State;	which is not the host Member State;	the European Border Guard Teams	border guards deployed as part of
		or other relevant staff but which is	the European Border Guard Teams
		not a host Member State;	or other relevant staff but which is

			not a host Member State;
5. 'participating unit' means a		5. 'participating unit' means a	Agreement on:
maritime or aerial unit of the host		maritime, <i>land</i> or aerial unit <i>under</i>	5. 'participating unit' means a
Member State or of a participating		the responsibility of the host	maritime, <i>land</i> or aerial unit <i>under</i>
Member State;		Member State or of a participating	the responsibility of the host Member
		Member State that takes part in a	State or of a participating Member
		sea operation;	State that takes part in a 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'	Agreement on:
means the national coordination		means the national coordination	7. 'National Coordination Centre'
centre established for the purposes of		centre established for the purposes of	means the national coordination
the European Border Surveillance		the European Border Surveillance	centre established for the purposes of
System (EUROSUR) in accordance		System (EUROSUR) in accordance	the European Border Surveillance
with Regulation (EU) No [/];		with Regulation (EU) No <i>1052/2013</i> ;	System (EUROSUR) in accordance
	43520		with Regulation (EU) No 1052/2013;
	AM 20		
	7a. 'operational plan' means the		See point 13 Council text.
	operational plan referred to in		Agreement on:
	Article 3a or Article 8e of		'operational plan' means the
	Regulation (EC) No 2007/2004;		operational plan referred to in
			Article 3a and Article 8e of
0 (1')			Regulation (EC) No 2007/2004;
8. 'ship' means a boat, vessel or		8. 'vessel' means any type of	Agreement on (adaptation throughout
any other craft used at sea;		water craft, including boats,	the text): 8. 'vessel' means any type of
		dinghies, floating platforms, non- displacement craft and seaplanes,	water craft, including boats,
		used or capable of being used at sea;	dinghies, floating platforms, non-
		used of capable of being used at sea,	ungmes, jivaimg panjorms, non-

9. 'stateless ship' means a ship without nationality or assimilated to a ship without nationality when the ship has not been granted by any State the right to fly its flag or when it sails under the flags of two or more States, using them according to convenience;		9. 'stateless <i>vessel</i> ' means a <i>vessel</i> without nationality or assimilated to a <i>vessel</i> without nationality when the <i>vessel</i> has not been granted by any State the right to fly its flag or when it sails under the flags of two or more States, using them according to convenience;	displacement craft and seaplanes, used or capable of being used at sea; Agreement on (adaptation throughout the text): 9. 'stateless vessel' means a vessel without nationality or assimilated to a vessel without nationality when the vessel has not been granted by any State the right to fly its flag or when it sails under the flags of two or more States, using them according to convenience;
10. 'Protocol against the Smuggling of Migrants' means the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime signed in Palermo, Italy in December 2000;	AM 21	10. 'Protocol against the Smuggling of Migrants' means the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime signed in Palermo, Italy in December 2000;	Identical.
11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life including as regards the protection of their fundamental rights is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination;	11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life <i>as well as</i> the protection of their fundamental rights is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination, <i>in compliance with the</i>	11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life [] is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination, in compliance with the principle of non-refoulement;	Agreement on: 11. 'place of safety' means a location where rescue operations are considered to terminate and where the survivors' safety of life [] is not threatened, where their basic human needs can be met and from which transportation arrangements can be made for the survivors' next destination or final destination, taking into account the protection of

	principle of non-refoulement;		their fundamental rights in compliance with the principle of non-refoulement.
12. 'Rescue Coordination Centre' means a unit responsible for promoting efficient organisation of		12. 'Rescue Coordination Centre' means a unit responsible for promoting efficient organisation of	Identical.
search and rescue services and for coordinating the conduct of search and rescue operations within a search		search and rescue services and for coordinating the conduct of search and rescue operations within a search	
and rescue region as defined in the 1979 International Convention on Maritime Search and Rescue.		and rescue region as defined in the 1979 International Convention on Maritime Search and Rescue.	
		13. 'Operational plan' means the operational plan referred to in Articles 3a and 8e of Regulation (EC) No 2007/2004.	See point 7a EP text: Agreement not to take up Council text (covered by point 7a).
		14. 'contiguous zone' means a zone adjacent to the territorial sea as defined in Article 33 of the United Nations Law of the Sea Convention.	Agreement on: 14. 'contiguous zone' means a zone adjacent to the territorial sea as defined in Article 33 of the United Nations Law of the Sea Convention.
			Agreement on: 15. 'coastal Member State' means a Member State in whose territorial sea or contiguous zone an interception takes place.

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

opinion, or from which there is a serious risk of expulsion, removal or extradition to another country in contravention of the principle of non-refoulement.

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 the principle of non-refoulement.

AM 24

- 2. Before deciding on disembarkation in a third country, the participating units shall take into account the general situation in that third country and intercepted or rescued persons shall not be disembarked in that 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
- Before and during a sea operation, the host Member State and the participating Member States *shall examine* the general situation in the neighbouring third countries and the existence of agreements and projects on migration and asylum, carried out in accordance with Union law and through Union *funds. Intercepted* or rescued persons shall not be disembarked in, conducted towards, otherwise handed over to the authorities of, or forced to enter, a third country when the host Member State, the participating Member States or the Agency are aware or ought to be aware that this third country is engaged in practices as described in paragraph 1. Those Member States shall provide that information to the participating units. For that purpose, they shall use information from a range of sources, including
- When considering the possibility of disembarkation in a third country, in the context of planning a sea operation, the [...] host Member State, in coordination with participating Member States and the Agency, shall take into account the general situation in that third country [...]. The assessment of the general situation in a third country may be based on information derived from Union bodies, offices and agencies, and relevant international organisations, and that assessment shall be part of the operational plan. Intercepted or rescued persons shall not be disembarked in that 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.

Agreement on:

When considering the possibility of disembarkation in a third country, in the context of planning a sea operation, the host Member State, in coordination with participating Member States and the Agency, shall take into account the general situation in that third country. The assessment of the general situation in a third country shall be based on information derived from a broad range of sources, which may include other Member States, Union bodies, offices and agencies, and relevant international organisations and it may take into account the existence of agreements and projects on migration and asylum carried out in accordance with Union law and through Union funds. That general assessment shall be part of the operational plan and it shall be provided to the participating units.

in particular other Member States, the European External Action Service, the European Asylum Support Office, the Agency, the United Nations High Commissioner for Refugees and other relevant international and non-governmental organisations.

That general assessment shall be updated as necessary.
Intercepted or rescued persons shall not be disembarked, forced to enter, conducted to or otherwise handed over to the authorities of a 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.

AM 25

3. In case of disembarkation in a third country, the participating units shall identify the intercepted or rescued persons and assess their personal circumstances to the extent possible before disembarkation. They shall inform the intercepted or rescued persons of the place of disembarkation in an appropriate way and they shall give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of *non-refoulement*.

If disembarkation in a third country is considered or in the cases provided for in point (b) of Article 6(1a) and point (b) of Article 7(1a), the participating units shall identify the intercepted or rescued persons and assess their personal circumstances, including their medical conditions and other circumstances that might make them vulnerable or subject to international protection needs, before a decision is made. They shall inform the intercepted or rescued persons of the place of disembarkation in a language which those persons understand or may reasonably be presumed to *understand* and they shall give them an opportunity to express any reasons

During the operation, before disembarkation in a third country and taking into account the assessment of the general situation in that third country in accordance with paragraph 2, the participating units shall, to the extent possible and without prejudice to Article 3, identify the intercepted or rescued persons, [...] assess their personal circumstances, [...] inform them of the place of disembarkation in an appropriate way, and [...] give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of nonrefoulement.

EP proposal:

During the sea operation, before the intercepted or rescued persons are disembarked in, forced to enter, conducted to or otherwise handed over to the authorities of a third country and taking into account the assessment of the general situation in that third country in accordance with paragraph 2, the participating units shall, without prejudice to Article 3, use all means to identify the intercepted or rescued persons. *They shall* assess their personal circumstances [...], inform them of the place of disembarkation in a way those persons understand or may reasonably be presumed to *understand* and [...] give them an

for believing that disembarkation in the proposed place would be in violation of the principle of nonrefoulement. Further details shall be provided for in the operational plan.

opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of nonrefoulement.

For those purposes further details shall be provided for in the operational plan including, when necessary, the availability of shorebased medical staff, interpreters and other relevant experts of the host and participating Member States. Each participating unit shall include at least one person with basic first aid training.

Rapporteur's proposal:

During the sea operation, before the intercepted or rescued persons are disembarked in, forced to enter, conducted to or otherwise handed over to the authorities of a third country and taking into account the assessment of the general situation in that third country in accordance with paragraph 2, the participating units shall, without prejudice to Article 3, use all means to identify the intercepted or rescued persons, assess their personal circumstances, inform them of their destination in a way those persons understand or may

reasonably be presumed to *understand* and give them an opportunity to express any reasons for believing that disembarkation in the proposed place would be in violation of the principle of nonrefoulement. For those purposes, further details shall be provided for in the operational plan including, when necessary, the availability of shorebased medical staff, interpreters and other relevant experts of the host and participating Member States. The operational plan shall also provide for an incident reporting obligation of each participating unit to the Agency on cases of disembarkation in third countries when intercepted or rescued persons have expressed reasons for believing that disembarkation in the proposed place would be in violation of the principle of non-refoulement and how those situations were dealt with by the participating unit. Each participating unit shall include at least one person with basic first aid training. In the light of the third informal trilogue discussions, PRES suggests the following draft compromise:

During the sea operation, before
disembarkation in a third country <i>and</i>
taking into account the assessment
of the general situation in that third
country in accordance with
paragraph 2, the participating units
shall, without prejudice to Article 3,
make every effort use all means to
identify the intercepted or rescued
persons, assess their personal
circumstances, inform them of the
place of disembarkation in an
appropriate way their destination in
a way that those persons understand
or may reasonably be presumed to
<u>understand</u> and give them an
opportunity to express any reasons
for believing that disembarkation in
the proposed place would be in
violation of the principle of non-
refoulement.
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 of the host
and participating Member States.
Each participating unit shall include
at least one person with basic first
aid training.
The report referred to in Article 10d

4. The participating units shall	AM 26 4. Throughout the sea operation,	4. The participating units shall	shall include further details on cases of disembarkation in third countries and how the procedures laid down in this paragraph were applied by the participating units to ensure compliance with the principle of non-refoulement. Proposal of the technical meeting:
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.	the participating units shall address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, disabled persons, persons in need of international protection and other persons in a particularly vulnerable situation throughout the sea operation. For this purpose, participating units shall be able to draw on medical doctors, interpreters and other relevant experts.	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.	4. Throughout the sea operation, the participating units shall address the special needs of children, victims of trafficking, persons in need of urgent medical assistance, disabled persons, persons in need of international protection and other persons in a particularly vulnerable situation.
	AM 27		
	4a. If there are grounds to believe that disembarkation of persons intercepted or rescued at sea in the		EP proposal: 4a. Any exchange of personal data with third countries shall be strictly
	proposed place would be in violation of the principle of non-refoulement, the participating units shall not		limited to what is absolutely necessary for the purposes of this Pagulation Approximate of
	share personal information regarding the persons with the		Regulation. Any exchange of personal data with third countries on persons who express reasons to
	authorities of the country of origin		believe that disembarkation in a

r with the authorities of other third ountries.	third country would be in violation of the principle of non-refoulement shall be prohibited.
	In the light of the third informal trilogue discussions, PRES suggests the following draft compromise, based on agreed language of Article 20 of EUROSUR and Article 35 of
	EURODAC: Any exchange with third countries of personal data obtained during a sea operation for the purposes of this Regulation shall be strictly
	limited to what is absolutely necessary and shall be carried out in accordance with Directive 95/46/EC, Framework Decision 2008/977/JHA and the relevant national provisions
	on data protection. The exchange with third countries of personal data regarding intercepted or rescued persons
	obtained during a sea operation shall be prohibited if there is a serious risk of contravention of the principle of non-refoulement.

	AM 28		
	4b. The participating units shall treat all persons on board in a humane way.		Agreement on (in line with Article 6 SBC): 4b. Participating units shall, in the performance of their duties, fully respect human dignity.
			Agreement on: 4c. The provisions of this Article shall apply to all measures taken by Member States or the Agency in accordance with this Regulation.
	AM 29		
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.	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 and other relevant staff 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 in accordance with the second paragraph of Article 5 of Regulation (EC) No 2007/2004.	Agreement on: 5. Border guards and other staff 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 in accordance with the second paragraph of Article 5 of Regulation (EC) No 2007/2004.

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	EP proposal (in conjunction with
participating units shall approach a	participating units shall approach a	participating units shall approach a	Article $6(1)(a)$ and $7(1)(a)$:
ship suspected of crossing or	ship suspected of crossing or	vessel suspected of carrying persons	1. Upon detection, the
intending to cross the border in an	intending to cross the border in an	circumventing or intending to	participating units shall approach a
irregular manner to observe its	irregular manner to observe its	circumvent checks at border	vessel suspected of carrying persons
identity and nationality and, pending	identity and nationality and, pending	crossing points or of being engaged	circumventing or intending to
further measures, it shall be surveyed	further measures, it shall be surveyed	in the smuggling of migrants by sea	circumvent checks at border
at a prudent distance. The	at a prudent distance taking all due	in order to observe its identity and	crossing points or of being engaged
participating units shall communicate	<i>precautions</i> . The participating units	nationality and, pending further	in the smuggling of migrants by sea
information about the ship	shall communicate information about	measures, [] shall [] survey that	in order to observe its identity and
immediately to the International	the ship immediately to the	vessel at a prudent distance. The	nationality and, pending further
Coordination Centre.	International Coordination Centre,	participating units shall collect and	measures, shall survey <i>that vessel</i> at a
	including information about the	report information about the vessel	prudent distance taking all due
	situation of persons on board, in	immediately to the International	precautions. The participating units
	particular whether there is an	Coordination Centre.	shall <i>collect and report</i> information
	imminent risk to their lives or		about the <i>vessel</i> immediately to the
	health. It shall transmit the		International Coordination Centre,
	information to the National		including, where possible,
	Coordination Centre of the host		information about the situation of
	Member State.		persons on board, in particular
			whether there is an imminent risk to
			their lives or whether there are
			persons with special medical needs.
			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 or it has entered the territorial sea or the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned.	2. Where the ship is about to enter or it has entered the territorial sea or, where formally proclaimed, the contiguous zone, of a Member State that is not participating in the sea operation, the participating units shall communicate information about the ship to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned.	2. Where <i>a vessel</i> is about to enter or it has entered the territorial sea or the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall <i>collect and report</i> information about <i>that vessel</i> to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned.	Agreement on: 2. Where a vessel is about to enter or it has entered the territorial sea or, where formally proclaimed, the contiguous zone of a Member State that is not participating in the sea operation, the participating units shall collect and report information about that vessel to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State concerned.
	AM 32		Welliber State Colicerned.
3. The participating units shall communicate information about any ship suspected of being engaged in illegal activities at sea outside the scope of a sea operation to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State or Member States concerned.	3. The participating units shall communicate information about any ship suspected of being engaged in illegal activities at sea, which are outside the scope of the sea operation, to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State or Member States concerned. When necessary and for the purposes laid down in this Regulation, the authorities of the Member States concerned and the Agency shall make use of the EUROSUR framework.	3. The participating units shall collect and report information about any vessel suspected of being engaged in illegal activities at sea outside the scope of a sea operation to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State or Member States concerned.	Agreement on: 3. The participating units shall collect and report information about any vessel suspected of being engaged in illegal activities at sea, which are outside the scope of the sea operation, to the International Coordination Centre, which shall convey this information to the National Coordination Centre of the Member State or Member States concerned in accordance with Regulation (EU) No 1052/2013.

Article 6		Article 6	
Interception in the territorial sea	43522	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	Agreement on:
Member State or a participating	Member State or a participating	Member State or a neighbouring	1. In the territorial sea of the host
Member State, the participating units	Member State, the participating units	participating Member State, the	Member State or a <i>neighbouring</i>
shall take one or more of the	shall take one or more of the	participating units shall, subject to	participating Member State, <i>that</i>
following measures when there are	following measures, subject to the	the authorisation of the coastal	State shall authorise the
reasonable grounds to suspect that a	authorisation of the Member State	Member State, take one or more of	participating units to take one or
ship is carrying persons intending to	to which the territorial sea belongs,	the following measures when there	more of the following measures when
circumvent checks at border crossing	when there are reasonable grounds to	are reasonable grounds to suspect	there are reasonable grounds to suspect that a <i>vessel may be</i> carrying
points or is engaged in the smuggling of migrants by sea:	suspect that a ship is carrying persons intending to circumvent	that a <i>vessel may be</i> carrying persons <i>who intend</i> to circumvent checks at	persons who intend to circumvent
of fingrants by sea.	checks at border crossing points or is	border crossing points or is engaged	checks at border crossing points or is
	engaged in the smuggling of	in the smuggling of migrants by sea:	engaged in the smuggling of migrants
	migrants by sea:	in the smagging of inigiants by sea.	by sea:
(a) requesting information and	(a) requesting information and	(a) requesting information and	PRES suggests to keep the Council
documentation on ownership,	documentation on ownership,	documentation on ownership,	text.
registration and elements relating to	registration and elements relating to	registration and elements relating to	EP suggests to merge the EP and
the voyage, and on the identity,	the voyage, and on the identity,	the voyage <i>of the vessel</i> , and on the	Council texts, in conjunction with
nationality and other relevant data on	nationality and other relevant data on	identity, nationality and other	Article 5.
persons on board;	persons on board, including their	relevant data on persons on board;	In the light of the third informal
	health conditions, in order to assess	-	trilogue discussions, PRES suggests
	if there are persons with special		the following draft compromise:
	medical needs on board;		(a) making persons on board
			aware that they may not be
			authorised to cross the border and
			requesting information and
			documentation on ownership,
			registration and elements relating to
			the voyage of the vessel, and on the
			identity, nationality and other

(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;	(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;	(b) stopping, boarding and searching the <i>vessel</i> , its cargo and persons on board, and questioning persons on board;	relevant data on persons on board, including their health conditions, in order to assess if whether there are persons with special medical needs; Agreement on: (b) stopping, boarding and searching the vessel, its cargo and persons on board, and questioning persons on board; In the light of the third informal
			trilogue discussions, PRES suggests the following draft compromise:
			(b) stopping, boarding and searching the vessel, its cargo and persons on board, and questioning persons on board <i>and informing</i>
			them that persons directing the vessel 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 craft may face penalties for facilitating the voyage;	as to why they may not be authorised to cross the border and that persons directing the ship 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>vessel</i> may face penalties for facilitating the voyage;	PRES suggests to merge the two texts: (c) making persons on board aware as to why they may not be authorised to cross the border and that persons directing the vessel may face penalties for facilitating the voyage. EP proposes to move this point to paragraph 1a or to delete this point or to modify the chapeau: "take two or more" In the light of the third informal trilogue discussions, PRES suggests to delete it, as under its compromise it would be split between points (a) and (b).
	1a. If the suspicions that a ship is carrying persons intending to circumvent checks at border crossing points or is engaged in the smuggling of migrants by sea prove to be founded, the host Member State or the participating Member State to which the territorial sea belongs may take one or more of the following measures:		Agreement on: 1a. If evidence confirming that suspicion is found, the host Member State or a neighbouring participating Member State may authorise the participating units to take one or more of the following measures: PRES draft compromise - technical clarification in order to show that it is about the Member State to whom the territorial sea belongs: 1a. If evidence confirming that suspicion is found, the that host Member State or a neighbouring participating Member State may

			authorise the participating units to take one or more of the following measures:
(d) seizing the ship and apprehending persons on board;	(a) seizing the ship and apprehending persons on board;	(d) seizing the <i>vessel</i> and apprehending persons on board;	Agreement on: (a) seizing the vessel and apprehending persons on board;
(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;	(b) 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 <i>ship</i> or steaming nearby until it is heading on such course;	(e) ordering the <i>vessel</i> to <i>alter</i> 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 <i>it is confirmed that the vessel is keeping to that given course;</i>	Agreement on: (b) ordering the vessel to alter 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 it is confirmed that the vessel is keeping to that given course;
(f) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation, or to the coastal Member State.	(c) conducting the ship or persons on board to the host Member State or to another Member State participating in the operation, or to the coastal Member State in accordance with the operational plan.	(f) conducting the <i>vessel</i> or persons on board to [] the coastal Member State.	Agreement on: (c) conducting the vessel or persons on board to the coastal Member State in 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.	Agreement on: Iaa. Any measures taken in accordance with paragraphs 1 and Ia shall be proportionate and shall not exceed what is necessary to achieve the objectives of this Article.
	AM 34 1b. The measures described in point (b) of paragraph 1a may only		Agreement not to take up AM 34 if an agreement is found on Article 4.
	be taken if the participating unit:		

2. The host Member State or the participating Member State on whose territorial sea the interception takes place shall authorise the measures referred to in paragraph 1 and it shall instruct the participating unit appropriately through the International Coordination Centre. The participating unit shall inform the host Member State, through the International Coordination Centre, whenever the master of the ship requests that a diplomatic agent or a consular officer of the flag State be notified.	(i) has ascertained that the ship is not forced to enter a third country in violation of Article 4(1) and (ii) has conducted, if applicable, the measures provided for in Article 4(3) and (4). Article 6 of Directive 2013/32/EU shall apply.	2. The host Member State or <i>a neighbouring</i> participating Member State on whose territorial sea the interception takes place <i>may</i> authorise <i>one or more of</i> the measures referred to in paragraph 1. <i>The host Member State</i> shall instruct the participating unit appropriately through the International Coordination Centre. The participating unit shall inform the host Member State, through the International Coordination Centre, whenever the master of the <i>vessel</i> requests that a diplomatic agent or a consular officer of the flag State be	Agreement on: 2. [] For the purposes of paragraph 1 and 1a, the host Member State shall instruct the participating unit appropriately through the International Coordination Centre. The participating unit shall inform the host Member State, through the International Coordination Centre, whenever the master of the vessel requests that a diplomatic agent or a consular officer of the flag State be notified.
		notified.	
	AM 35		
3. Where there are reasonable	3. Where there are reasonable	3. Where there are reasonable	Agreement on:
grounds to suspect that a ship	grounds to suspect that a stateless	grounds to suspect that a stateless	3. Where there are reasonable
without nationality or one that may	<i>ship</i> is carrying persons intending to	vessel [] is carrying persons	grounds to suspect that a stateless
be assimilated to a ship without	circumvent the checks at border	intending to circumvent the checks at	vessel [] is carrying persons
nationality is carrying persons	crossing points or is engaged in the	border crossing points or is engaged	intending to circumvent the checks at
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

border crossing points or is engaged in the smuggling of migrants by sea, the host Member State or the participating Member State in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.	host Member State or the participating Member State in whose territorial sea the stateless ship is intercepted shall authorise and instruct the participating unit to stop it and to take any of the measures laid down in paragraph 1.	the host Member State or the neighbouring participating Member State in whose territorial sea the stateless vessel is intercepted may authorise that it be stopped and that one or more of the measures laid down in paragraph 1 be taken. The host Member State shall instruct the participating unit appropriately through the International Coordination Centre.	in the smuggling of migrants by sea, the host Member State or the neighbouring participating Member State in whose territorial sea the stateless vessel is intercepted shall authorise one or more of the measures laid down in paragraph 1 and may authorise one or more of the measures laid down in paragraph 1a. The host Member State shall instruct the participating
4. Any operational activities in the territorial sea of a Member State that is not participating in the sea operation shall be conducted in accordance with the authorisation of that Member State. The International Coordination Centre shall be informed of any communication with that Member State and of the subsequent course of action authorised by that Member State.		4. Any operational activities in the territorial sea of a Member State that is not participating in the sea operation shall be conducted in accordance with the authorisation of that Member State. The host Member State shall instruct the participating unit through the International Coordination Centre based on the course of action authorised by that Member State.	unit appropriately through the International Coordination Centre. Agreement on: 4. Any operational activities in the territorial sea of a Member State that is not participating in the sea operation shall be conducted in accordance with the authorisation of that Member State. The host Member State shall instruct the participating unit through the International Coordination Centre based on the course of action authorised by that Member State.
	AM 36 4a. Member States and the Agency are bound by the provisions of the asylum acquis, and in particular of Directive 2013/32/EU of the European Parliament and of the Council on common procedures		Agreement not to take up AM 36.

Article 7 Interception on the high seas	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. AM 37	Article 7 Interception on the high seas	
1. On the high seas, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:	1. On the high seas, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a ship is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants:	1. On the high seas, the participating units <i>may</i> take one or more of the following measures when there are reasonable grounds to suspect that a <i>vessel</i> is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants, <i>and where relevant, national and international law, and in accordance with the instructions of the host Member State:</i>	Agreement on: 1. On the high seas, the participating units shall take one or more of the following measures when there are reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea subject to the authorisation of the flag State in accordance with the Protocol against the Smuggling of Migrants, and where relevant, national and international law:
(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, including their health conditions, in order to assess if there are persons with special medical needs on board;	(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;	PRES suggests to keep the Council text. EP suggests to merge the EP and Council texts, in conjunction with Article 5. In the light of the third informal trilogue discussions, PRES suggests the following draft compromise: (a) requesting information and

(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;	(b) stopping, boarding and searching the ship, its cargo and persons on board, and questioning persons on board;	(b) stopping, boarding and searching the <i>vessel</i> , its cargo and persons on board, and questioning persons on board;	documentation on ownership, registration and elements relating to the voyage of the vessel, and on the identity, nationality and other relevant data on persons on board, including their health conditions, in order to assess if whether there are persons with special medical needs; Agreement on: (b) stopping, boarding and searching the vessel, its cargo and persons on board, and questioning
			persons on board; In the light of the third informal trilogue discussions, PRES suggests the following draft compromise: (b) stopping, boarding and searching the vessel, its cargo and persons on board, and questioning persons on board <u>and informing</u> them that persons directing the vessel may face penalties for facilitating the voyage.

(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;	(c) making persons on board aware as to why they [] may not be authorised to cross the border and that persons directing the ship 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>vessel</i> may face penalties for facilitating the voyage;	PRES suggests to merge the two texts: (c) making persons on board aware as to why they [] may not be authorised to cross the border and that persons directing the vessel may face penalties for facilitating the voyage. EP proposes to move this point to paragraph 1a or to delete this point or to modify the chapeau: "take two or more". In the light of the third informal trilogue discussions, PRES suggests to delete it, as under its compromise first part of (c) is covered by Article 7(1a)(b) and second part of (c) is covered by Article 7(1)(b)).
(d) seizing the ship and	 Ia. 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: (a) seizing the ship and 	(d) seizing the <i>vessel</i> and	Agreement on: 1a. If evidence confirming that suspicion is found, the participating units 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, and where relevant, national and international law: Agreement on:
apprehending persons on board;	apprehending persons on board;	apprehending persons on board;	(a) seizing the <i>vessel</i> and apprehending persons on board;
(e) ordering the ship to modify its	Deleted	(e) ordering the <i>vessel</i> to <i>alter</i> its	PRES draft compromise:

course outside of or towards a	course [] towards a destination	(b) warning the vessel not to enter
destination other than the territorial	other than the territorial sea or the	the territorial sea or the contiguous
sea or the contiguous zone, including	contiguous zone, including escorting	zone, and where necessary
escorting the vessel or steaming	the vessel or steaming nearby until	<i>requesting</i> the vessel to alter its
nearby until the ship is heading on	the <i>vessel</i> is heading on such course;	course towards a destination other
such course;		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.
		EP proposal:
		(b) warning the vessel not to enter
		the territorial sea or the contiguous
		zone, and where necessary
		<i>requesting</i> the vessel to alter its
		course towards a destination other
		than the territorial sea or the
		contiguous zone []
		In the light of the third informal
		trilogue discussions, PRES suggests
		the following alternative draft
		compromise:
		(b) warning <i>and ordering</i> the
		vessel not to enter the territorial sea
		or the contiguous zone, and where
		necessary requesting the vessel to
		alter its course towards a destination
		other than the territorial sea or the
		contiguous zone []
		contiguous zone []

(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;	Agreement on: (c) conducting the vessel or persons on board to a third country or otherwise handing over the vessel or persons on board to the authorities of a third country;
(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.	Agreement on: (d) conducting the vessel or persons on board to the host Member State or to another neighbouring 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.	Agreement on: 1aa. Any measures taken in accordance with paragraphs 1 and 1a shall be proportionate and shall not exceed what is necessary to achieve the objectives of this Article.
			Agreement on: Iab. For the purposes of paragraph I and Ia, the host Member State shall instruct the participating unit appropriately through the International Coordination Centre.
	AM 38		4 4 4 20 30
	1b. The measures described in point (b) of paragraph 1a may only be taken if the participating unit:		Agreement not to take up AM 38 if an agreement is found on Article 4.
	(i) has ascertained that the ship is not forced to enter a third country in violation of Article 4(1) and		

	(ii) has conducted, if applicable,		
	the activities provided for in Article		
	4(3) and (4).		
	AM 39		
	Ic. When there are reasonable grounds to suspect that a ship is engaged in trafficking of human beings and illegal immigration, assistance shall be given to victims.		Agreement to add a new Recital after Recital 5: (5-a) The application of this Regulation should be without prejudice to Directive 2011/36 of the European Parliament and the Council on preventing and combating trafficking in human beings and protecting its victims, in particular as regards assistance to be given to victims of trafficking in
2. Where the ship is flying the		2 Where the paged is flying the	human beings.
2. Where the ship is flying the flag or displays the marks of registry		2. Where the <i>vessel</i> is flying the flag or displays the marks of registry	Agreement on:2. Where the <i>vessel</i> is flying the
of the host Member State or of a		of the host Member State or of a	flag or displays the marks of registry
participating Member State, that		participating Member State of of a	of the host Member State or of a
Member State shall, after confirming		Member State <i>may</i> , after confirming	participating Member State, that
the nationality of the ship, authorise		the nationality of the <i>vessel</i> ,	Member State <i>may</i> , after confirming
the measures laid down in		authorise <i>one or more of</i> the	the nationality of the <i>vessel</i> , authorise
paragraph 1.		measures laid down in paragraph 1.	one or more of the measures laid
թաւսցւսիո 1.		The host Member State shall then	down in paragraphs 1 and 1a. The
		instruct the participating unit	host Member State shall then
		appropriately through the	instruct the participating unit
		International Coordination Centre.	appropriately through the
		Incinational Contamation Centre.	
			International Coordination Centre.

Where the ship is flying the flag or displays the marks of registry of a Member State that is not participating in the sea operation or of a third country, the host Member State or a participating Member State, depending on whose participating unit has intercepted this ship, shall notify the flag State, it shall request confirmation of registry and, if nationality is confirmed, it shall request 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 measures authorised by the flag State.

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

	AM 40		
4. Where, though flying a foreign	4. Where, though flying a foreign	4. Where, though flying a foreign	Agreement on:
flag or refusing to show its flag, there	flag or refusing to show its flag, there	flag or refusing to show its flag, there	4. Where, though flying a foreign
are reasonable grounds to suspect	are reasonable grounds to suspect	are reasonable grounds to suspect	flag or refusing to show its flag, there
that the ship is, in reality, of the same	that the ship is, in reality, of the same	that the <i>vessel</i> is, in reality, of the	are reasonable grounds to suspect that
nationality as a participating unit,	nationality as a participating unit,	same nationality as a participating	the <i>vessel</i> is, in reality, of the same
that participating unit shall verify the	that participating unit shall verify the	unit, that participating unit shall	nationality as a participating unit, that
ship's right to fly its flag. To this	ship's right to fly its flag. To this	verify the <i>vessel's</i> right to fly its flag.	participating unit shall verify the
end, it may approach the suspected	end, it may approach the suspected	To this end, it may approach the	vessel's right to fly its flag. To this
ship. If suspicion remains after the	ship. If suspicion remains after the	suspected vessel. If suspicion	end, it may approach the suspected
documents have been checked, it	documents have been checked, it	remains [], it shall proceed to a	<i>vessel</i> . If suspicion remains, it shall
shall proceed to a further	shall proceed to a further	further examination on board the	proceed to a further examination on
examination on board the ship, which	examination on board the ship, which	<i>vessel</i> , which must be carried out	board the <i>vessel</i> , which <i>shall</i> be
must be carried out with all possible	shall be carried out with all possible	with all possible consideration. []	carried out with all possible
consideration. The participating	consideration. The participating		consideration.
Member State of which the ship is	Member State of which the ship is		
allegedly flying the flag shall be	allegedly flying the flag shall be		
contacted through the appropriate	contacted through the appropriate		
channels.	channels.		
5. Where, though flying a foreign		5. Where, though flying a foreign	Agreement on:
flag or refusing to show its flag, there		flag or refusing to show its flag, there	5. Where, though flying a foreign
are reasonable grounds to suspect		are reasonable grounds to suspect	flag or refusing to show its flag, there
that the ship is, in reality, of the		that the <i>vessel</i> is, in reality, of the	are reasonable grounds to suspect that
nationality of the host Member State		nationality of the host Member State	the <i>vessel</i> is, in reality, of the
or another participating Member		or another participating Member	nationality of the host Member State
State, the participating unit shall		State, the participating unit shall	or another participating Member
verify the ship's right to fly its flag		verify the <i>vessel's</i> right to fly its flag	State, the participating unit shall
upon authorisation of that Member		[].	verify the <i>vessel's</i> right to fly its flag
State.			[].

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

the ship with a view to verifying its statelessness. If suspicions prove to be founded further appropriate measures as laid down in paragraph 1 may be taken in accordance with national law and international law.	be founded further appropriate measures as laid down in paragraph 1 may be taken in accordance with national law, <i>Union law</i> and international law.	be founded the participating unit shall inform the host Member State which may take, directly or with the assistance of the Member State to whom the participating unit belongs, further appropriate measures as laid down in paragraph 1 [] in accordance with national [] and international law.	If evidence confirming that suspicion is found, the participating unit shall inform the host Member State which may take, directly or with the assistance of the Member State to whom the participating unit belongs, further appropriate measures as laid down in paragraphs 1 and 1a in accordance with national and international law.
9. A Member State that has taken any measure in accordance with paragraph 1 shall promptly inform the flag State of the results of that measure.		9. A Member State that has taken any measure in accordance with paragraph 1 shall promptly inform the flag State of the results of that measure.	Identical.
	AM 42		
10. The national official representing the host Member State or a participating Member State at the International Coordination Centre shall be designated under national law as an authority for the authorisation to verify the right of a ship to fly the flag of the Member State concerned or to take any of the measures laid down in paragraph 1.	10. The national official representing the host Member State or a participating Member State at the International Coordination Centre shall be responsible to facilitate communications with the relevant authorities of the Member State concerned in seeking authorisation to verify the right of a ship to fly its flag [] or to take any of the measures laid down in paragraph 1.	10. The national official representing the host Member State or a participating Member State at the International Coordination Centre shall be responsible to facilitate communications with the relevant authorities of the flag State in seeking authorisation to verify the right of a vessel to fly the flag of the Member State concerned or to take any of the measures laid down in paragraph 1.	Agreement on: 10. The national official representing the host Member State or a participating Member State at the International Coordination Centre shall be responsible to facilitate communications with the relevant authorities of that Member State in seeking authorisation to verify the right of a vessel to fly its flag or to take any of the measures laid down in paragraphs 1 and 1a.
11. Where the grounds for		11. Where the grounds for	Agreement on:
suspecting that a ship is engaged in		suspecting that a <i>vessel</i> is engaged in	11. Where the grounds for
the smuggling of migrants on the high seas prove to be unfounded or		the smuggling of migrants on the high seas prove to be unfounded or	suspecting that a <i>vessel</i> is engaged in the smuggling of migrants on the

the neutral nation a west date and be		the neutral nation with door and be	high soos mayo to be surfaced at a
the participating unit does not have		the participating unit does not have	high seas prove to be unfounded or
jurisdiction to act, but there remains		jurisdiction to act, but there remains	the participating unit does not have
a reasonable suspicion that the ship is		a reasonable suspicion that the <i>vessel</i>	jurisdiction to act, but there remains a
carrying persons intending to reach		is carrying persons intending to reach	reasonable suspicion that the <i>vessel</i> is
the border of a Member State and to		the border of a Member State and to	carrying persons intending to reach
circumvent checks at border crossing		circumvent checks at border crossing	the border of a Member State and to
points, that ship shall continue to be		points, that <i>vessel</i> shall continue to	circumvent checks at border crossing
monitored. The International		be monitored. The International	points, that <i>vessel</i> shall continue to be
Coordination Centre shall		Coordination Centre shall	monitored. The International
communicate information about the		communicate information about the	Coordination Centre shall
ship to the National Coordination		vessel to the National Coordination	communicate information about the
Centre of the Member States towards		Centre of the Member States towards	vessel to the National Coordination
which it is directed.		which it is directed.	Centre of the Member States towards
			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	Agreement on:
territorial sea of a Member State,	zone contiguous to the territorial sea	territorial sea of a Member State,	1. In the zone contiguous to the
which is a host Member State or a	of a Member State, which is a host	which is a host Member State or a	territorial sea of a Member State,
participating Member State, the	Member State or a participating	<i>neighbouring</i> participating Member	which is a host Member State or a
measures laid down in Article 6(1)	Member State, the measures laid	State, the measures laid down in	neighbouring participating Member
shall be taken in accordance with	down in Article 6(1) shall be taken in	Article 6(1) shall be taken in	State, the measures laid down in
Article 6(2).	accordance with Article 6(1b) and	accordance with Article 6(2). Such	Article 6(1) <i>and</i> 6(1a) shall be taken
Title 16 (2).	(2) and Article 4.	authorisation may only be given for	in accordance with those paragraphs
	(2) 4114 111111111 7.	measures that are necessary to	and with Article 6(2). Such
		prevent the infringement of laws	authorisation may only be given for
		and regulations within that Member	measures that are necessary to
		State's territory or territorial sea.	1
		Sime's terrnory or terrnorm sea.	prevent the infringement of laws and
			regulations within that Member
			State's territory or territorial sea.

O The		O The	
2. The measures laid down in		2. The measures laid down in	Agreement on:
Article 6(1) shall not be taken in the		Article 6(1) shall not be taken in the	2. The measures laid down in
contiguous zone of a Member State		contiguous zone of a Member State	Articles 6(1) and 6(1a) shall not be
that is not participating in the sea		that is not participating in the sea	taken in the contiguous zone of a
operation without the authorisation		operation without the authorisation	Member State that is not participating
of that Member State. The		of that Member State. The	in the sea operation without the
International Coordination Centre		International Coordination Centre	authorisation of that Member State.
shall be informed of any		shall be informed of any	The International Coordination
communication with that Member		communication with that Member	Centre shall be informed of any
State and of the subsequent course of		State and of the subsequent course of	communication with that Member
action authorised by that Member		action authorised by that Member	State and of the subsequent course of
State.		State. If that Member State does not	action authorised by that Member
		give its authorisation and where	State. If that Member State does not
		there is a reasonable suspicion that	give its authorisation and where
		the vessel is carrying persons	there is a reasonable suspicion that
		intending to reach the border of a	the vessel is carrying persons
		Member State, Article 7(11) shall	intending to reach the border of a
		apply.	Member State, Article 7(11) shall
		TH'S	apply.
3. Where a stateless ship is		3. Where a stateless <i>vessel</i> is	Agreement on:
transiting the contiguous zone,		transiting the contiguous zone,	3. Where a stateless <i>vessel</i> is
Article 7(8) shall apply.		Article 7(8) shall apply.	transiting the contiguous zone,
Three (o) shall apply.		There is a small apply.	Article 7(8) shall apply.
Article 9		Article 9	Tittele 7(0) shall apply.
Search and rescue situations		Search and rescue situations	
Search and rescue structions	AM 44	bearen and resear situations	
	-1. Before a sea operation,		Agreement on:
	Member States shall ensure that		1. Member States shall observe
	their participating units will comply		their obligation to render assistance
	with the obligation to render		to any vessel or person in distress at
	assistance to any ship or person in		sea and during a sea operation, they
	distress at sea, in accordance with		shall ensure that their participating
	aisiress at sea, in accordance with		shan chouse that their participating

	applicable provisions of international Conventions 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.		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.
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.	See text agreed for AM 44.
		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:	Agreement on: 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:

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 available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.	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 available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs.	(a) When facing, in the course of a sea operation, a situation of uncertainty, alert or distress as regards a vessel or any person on board, the participating units shall consider and promptly forward all available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs and they shall place themselves at the disposal of that Rescue Coordination Centre.	Agreement on: (a) When, in the course of a sea operation, the participating units have reason to believe that they are facing a phase of uncertainty, alert or distress as regards a vessel or any person on board, they shall promptly forward all available information to the Rescue Coordination Centre responsible for the search and rescue region in which the situation occurs and they shall place themselves at the disposal of that Rescue Coordination Centre.
		(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.	Agreement to accept the Council text (moved from paragraph 10).
	3. To assist in determining the appropriate operating procedures, the following emergency situations shall be distinguished by the participating units:		Agreement on:
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	(c) A vessel or the persons on board shall be considered to be in a phase of uncertainty in particular:
(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	(i) 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	(ii) 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	(d) A vessel or the persons on board shall be considered to be in a phase 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	(i) when, following a phase 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	(ii) 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	(e) A vessel or the persons on board shall be considered to be in a phase 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) when positive information is received that a person or a ship is in danger and in need of immediate assistance; or	Deleted	(i) 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	(ii) 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	(ii) when, following a phase 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.	(iii) when information is received which indicates that the operating efficiency of a ship has been impaired to the extent that a distress situation is likely.	Deleted	(iii) 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 paragraph 3, participating units shall take all relevant elements into account and communicate their assessment to the responsible Rescue Coordination Centre, including in particular:	(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:	Agreement on: (f) Participating units shall, for the purpose of considering whether the vessel is in a phase of uncertainty, alert or distress, take into account and forward all relevant information and observations to the responsible Rescue Coordination Centre including:
(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;	Agreement on: (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;
(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;	(ii) the seaworthiness of the <i>vessel</i> and the likelihood that the <i>vessel</i> will not reach its final destination;	Agreement on: (ii) the seaworthiness of the vessel and the likelihood that the vessel will not reach its final destination;
(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>);	(iii) the number of persons on board in relation to the type and condition of the vessel;	Agreement on: (iii) the number of persons on board in relation to the type and condition of the vessel;
(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;	Agreement on: (iv) the availability of necessary supplies such as fuel, water, food to reach a shore;

(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> ;	Agreement on: (v) the presence of qualified crew and command of the vessel;
(f) the availability and capability of safety, navigation and communication equipment;	(f) the availability [] of safety, navigation and communication equipment;	(vi) the availability and capability of safety, navigation and communication equipment;	Agreement on: (vi) the availability and capability of safety, navigation and communication equipment;
(g) the presence of passengers in urgent need of medical assistance;	(g) the presence of passengers in urgent need of medical assistance;	(vii) the presence of persons on board in urgent need of medical assistance;	Agreement on: (vii) the presence of persons on board in urgent need of medical assistance;
(h) the presence of deceased passengers;	(h) the presence of deceased passengers;	(viii) the presence of deceased persons on board;	Agreement on: (viii) the presence of deceased persons on board;
(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;	Identical:
(j) the weather and sea conditions, including weather and marine forecasts.	(j) the weather and sea conditions [].	(x) the weather and sea conditions, including weather and marine forecasts.	Agreement on: (x) the weather and sea conditions, including weather and marine forecasts.
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.	EP and Council texts identical, subject to renumbering (becoming now point (g)).

- 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 of injury or loss of life.
- 9. 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 another Rescue Coordination
 Centre is better placed to assume
 coordination of the search and rescue
 situation.
- The existence of a distress situation shall not be exclusively dependent on or determined by an actual request for assistance. In cases 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 [...], 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.
- 7. In cases 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 [...].
- [...] 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.
- 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 that participating unit considers that another internationally recognised Rescue Coordination Centre is better [...] able to assume coordination of the search and rescue situation.

Agreement on:

(h) [...] 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.

PRES suggests to keep the Council text subject to renumbering (becoming now point (i)). In the framework of a general agreement on the Regulation, EP could accept the Council text.

			Agreement to add closing provision of paragraph 2 (to replace the text deleted from Article 9(2): The operational plan may contain details adapted to the circumstances of the sea operation concerned.
10. The participating units shall	8. [] The International	Deleted	Agreement to shift the paragraph to
inform the International Coordination	Coordination Centre shall be		<i>Article</i> (9(2)(b).
Centre as soon as possible of any	informed as soon as possible of any		
contact with the Rescue Coordination	contact with the Rescue Coordination		
Centre and of the course of action	Centre and of the course of action		
taken by them.	taken by the participating unit.	2 377 5 7.1	
11. Where the ship cannot or can	9. Where the ship cannot or can	3. Where [] the search and	Agreement on:
no longer be considered as being in a	no longer be considered as being in a	rescue <i>situation</i> has been concluded,	3. Where [] the search and
distress situation or the search and	distress situation or the search and	the participating unit shall, in	rescue <i>situation</i> has been concluded,
rescue operation has been concluded,	rescue operation has been concluded,	consultation with the International	the participating unit shall, in consultation with the International
the participating unit shall, in consultation with the International	the participating unit shall, in consultation with the International	Coordination Centre, resume the sea	
		operation.	Coordination Centre, resume the sea
Coordination Centre, resume the sea	Coordination Centre, resume the sea		operation.
operation. Article 10	operation.	Article 10	
Disembarkation		Article 10 Disembarkation	
Disembarkation	AM 45	Disembarkation	
1. The modalities for the	1. The modalities for the	1. The <i>operational plan may</i>	Agragment on
		1. The operational plan may contain details adapted to the	Agreement on:
disembarkation of the persons intercepted or rescued in a sea	disembarkation of the persons intercepted or rescued in a sea	circumstances of the sea operation	1. The operational plan shall contain, in accordance with
operation shall be set out in the	operation shall be set out in the	concerned and it shall contain, in	·
operational plan. Those modalities	operational plan <i>in accordance with</i>	accordance with international law	international law and in respect of fundamental rights, at least the
for disembarkation shall not have the	Article 4. Those modalities for	and in respect of fundamental	following modalities for the
effect of imposing obligations on	disembarkation shall not have the	rights, at least the following	disembarkation of the persons
Member States not participating in	effect of imposing obligations on	modalities for the disembarkation of	intercepted or rescued in a sea
the sea operation unless they	Member States not participating in	the persons intercepted or rescued in	operation.
the sea operation unless they	member states not participating in	the persons intercepted of rescued in	operation.

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).	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). Modalities for disembarkation may specify that disembarkation does not necessarily imply sole responsibility for the State on whose territory persons rescued at sea are disembarked.	a sea operation [].	
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.	(a) In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(2) or (4) or in Article 8(1) or (2), disembarkation shall take place in the coastal Member State, without prejudice to Article 6(1)(e).	Agreement on: (a) In the case of interception in the territorial sea or the contiguous zone as laid down in Article 6(2) or (4) or in Article 8(1) or (2), disembarkation shall take place in the coastal Member State, without prejudice to Article 6(1a)(b). Agreement to add a definition of "coastal Member State" in Article 2(15) Agreement on: 15. 'coastal Member State' means a Member State in whose territorial sea or contiguous zone an interception takes place.

	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	Agreement to delete (incorporated into Article 10(1)(a)).
	AM 48 2a. Before disembarkation, the 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.		PRES suggests not to accept EP text. EP wants to keep its text.
3. Subject to the application of Article 4, in the case of interception on the high seas as laid down in Article 7, disembarkation may take place in the third country from which the ship departed. If that is not possible, disembarkation shall take place in the host Member State.		(b) Subject to the application of Article 4, in the case of interception on the high seas as laid down in Article 7, disembarkation may take place in the third country from which the vessel is assumed to have departed. If that is not possible, disembarkation shall take place in the host Member State.	Agreement on: (b) Subject to the application of Article 4, in the case of interception on the high seas as laid down in Article 7, disembarkation may take place in the third country from which the vessel is assumed to have departed. If that is not possible, disembarkation shall take place in the host Member State.

	AM 49		
4. In the case of search and rescue	4. Subject to the application of	(c) In the case of search and rescue	Agreement on:
situations as laid down in Article 9,	Article 4, in the case of search and	situations as laid down in Article 9	(c) In the case of search and rescue
the participating units shall cooperate	rescue situations as laid down in	and without prejudice to the	situations as laid down in Article 9
with the responsible Rescue	Article 9, the participating units shall	responsibility of the Rescue	and without prejudice to the
Coordination Centre to provide a	cooperate with the responsible	Coordination Centre to identify the	responsibility of the Rescue
suitable port or place of safety for the	Rescue Coordination Centre to	most appropriate place for	Coordination Centre the host
rescued persons and to ensure their	provide a suitable port or place of	disembarking the rescued persons,	Member State and the participating
rapid and effective disembarkation.	safety for the rescued persons and to	the host Member State and the	Member States shall cooperate with
	ensure their rapid and effective	participating Member States shall	the responsible Rescue Coordination
	disembarkation.	cooperate with the responsible	Centre to <i>identify a place of safety</i>
		Rescue Coordination Centre to	and, when the responsible Rescue
		identify a place of safety and, when	Coordination Centre designates
		the responsible Rescue	such a place of safety, they shall
		Coordination Centre designates	ensure that disembarkation of the
		such a place of safety, they shall	rescued persons is carried out
		ensure that the rescued persons are	rapid <i>ly</i> and effective <i>ly</i> .
		rapid <i>ly</i> and effective <i>ly</i> disembark <i>ed</i> .	
Without prejudice to the		[]	Agreement to delete this paragraph.
responsibility of the Rescue			
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.		If it is not possible to arrange for the participating unit to be 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.	Agreement on: If it is not possible to arrange for the participating unit to be 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.
		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).	Agreement on (moved from paragraph 1): 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).
	AM 50		Agreement on: The operational plan may contain details adapted to the circumstances of 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	Agreement on: 2. The participating units shall inform the International Coordination Centre of the presence of any persons within the meaning of Article 4, and the International Coordination Centre

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.	shall convey that information 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. 2. The Agency's Fundamental Rights Strategy and the activities of		Agreement not to take up AM 51:
	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.		
	Article 10a	Agreement on:
	Amendments to Regulation	Article 10a
	(EC) No 2007/2004	Amendments to Regulation
		(EC) No 2007/2004
	Regulation (EC) No 2007/2004 is	Regulation (EC) No 2007/2004 is
	hereby amended as follows:	hereby amended as follows:
	(1) in Articles 3a(1) and 8e(1), at	(1) in Articles 3a(1) and 8e(1), at
	the end of point (j) respectively, the	the end of point (j) respectively, the
	following phrase is added:	following phrase is added:
	''in that regard the operational plan	''in that regard the operational plan
	shall be established in accordance	shall be established in accordance
	with the provisions of the	with the provisions of the Regulation
	Regulation (EU) No/2014 of the	(EU) No/2014 of the European
	European Parliament and of the	Parliament and of the Council of
	Council of establishing rules for	establishing rules for the
	the surveillance of the external sea	surveillance of the external sea
	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 Members States of the	of the Members States of the
	European Union (OJ L)";	European Union (OJ L)";

AM 52		
Article 100		
Specialised bra	ches	
Pursuant to Article 16	f Regulation Agreeme	ent not to take up AM 52:
(EU) No 2004/2007, the	Agency	
shall evaluate the need	o set up	
specialised branches, fo	r all aspects	
relating to the surveilla	ace of	
maritime borders, as op	erational	
offices in areas subject	o significant	
migration flows, includ	~ ~	
migration and in partic	tlar in the	
Mediterranean, to impr	ove	
coordination between M	ember	
States and ensure solid	rity and	
responsibility-sharing l	etween	
them, thereby strengthe	uing the	
operational capacity of		
AM 53	Agreeme	ent on:
Article 10d		Article 10c
Solidarity mecha	nisms S	olidarity mechanisms
1. A Member State f	ced with a 1. A 1	Member State faced with a
situation of urgent and	exceptional situation	of urgent and exceptional
pressure at its external	pressure pressure	at its external border shall
be able to request:	be able t	o request:
- the deployment of	European – the	e deployment of European
Border Guard Teams in	accordance Border (Guard Teams in accordance
with Article 8a of Regu	ation (EC) with Arts	icle 8a of Regulation (EC)
No 2007/2004 to provid		/2004 to provide rapid
operational assistance i	o the operation	nal assistance to the
Member State;	Member	State;

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

- emergency assistance under Article 22 of Regulation XXX ([Asylum and Migration Fund] to	- 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;	address urgent and specific needs in the event of an emergency situation;
- the Commission to check the	the event of an emergency studion,
willingness of the Member States to	
accommodate asylum seekers.	
3. With a view to the proper	
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 report to the European Parliament, the Council and the Commission on the implementation of this Regulation by 38* and every two years thereafter.	Agreement on: 1. The Agency shall submit a report to the European Parliament, the Council and the Commission on the implementation practical application of this Regulation by * and every two years thereafter.
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.	Agreement on: 2. The report shall include a description of the procedures put in place by the Agency to implement apply this Regulation during sea operations and an assessment of information on the practical application of this Regulation in practice, 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 any incidents which may have taken place.

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³⁸ OJ: please insert date: two years after entry into force of this Regulation.

CHAPTER IV	CHAPTER IV	
FINAL PROVISIONS	FINAL PROVISIONS	
	Article 10b	
	Effects of Decision 2010/252/EU	
	Decision 2010/252/EU shall cease to	Agreement on:
	produce effects from the date of	Decision 2010/252/EU ceases to
	entry into force of this Regulation.	produce effects from the date of
		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	Identical.
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 Official	
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	