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WORKING PAPER

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From:	Presidency
To:	Delegations
Subject:	Regional Disembarkation Arrangements

Delegations will find attached a revised version of the Presidency non-paper on the above subject.

Presidency Non-Paper on Regional Disembarkation Arrangements

In order to definitively break the business model of the smugglers, prevent tragic loss of life and eliminate the incentive to embark on perilous journeys, the European Council conclusions of 28-29 June 2018 in their para 5 call on the Council and the Commission to swiftly explore the concept of regional disembarkation platforms, in close cooperation with relevant third countries as well as UNHCR and IOM. Such platforms should operate distinguishing individual situations, in full respect of international law and without creating a pull factor.

Further to first discussions in this context at the informal JHA Council in Innsbruck on 12 July 2018, at the COREPER meeting on 25 July 2018 and at the informal senior officials meeting in Geneva on 30 July 2018, a JHA Counsellors (External Relations) meeting on 29 August 2018 dealt with the Commission Non-Paper on regional disembarkation arrangements of 24 July 2018. The High Level Group on Asylum and Migration also examined the issue at its meeting on 10 September 2018. In addition, a political discussion on broad cooperation in the field of migration and security with African partners took place at the „Ministerial Conference on Security and Migration - Promoting Partnership and Resilience“ on 14 September 2018 in Vienna.

Member States expressed general support for the objectives, principles and potential incentives and support measures outlined in the Commission Non-Paper, based on the European Council conclusions. Member States also agreed on the urgency to take further steps on the development and implementation of the concept, in parallel to pursuing other strands of the European Council conclusions, in particular the concept of controlled centres within the EU. Furthermore, the concept needs to be well-embedded in the EU's holistic approach to migration. An initial phase of outreach towards potential partner countries, aiming at a step-by-step development of tailor-made support and incentive packages with a focus on Search and Rescue (SAR), was generally considered a promising way forward. In this context, the human rights situation and specific legal framework in potential partner countries, including their adherence to relevant international instruments, as well as their existing administrative capacity for asylum and migration will be duly taken into account.

In order to provide further clarification as requested at the meetings on 29 August and 10 September 2018 and to substantiate key aspects of the Commission Non-Paper, the table below provides an overview of the basic principles, the applicable international obligations and the potential incentives and support measures that constitute the core elements of the concept of such arrangements.

The core elements listed in the table below should serve as a basis and guidance for a clear and consistent communication strategy towards partner countries in an initial phase of outreach. This initial phase should aim at

1. engaging relevant partner countries, building on their existing relations with the EU and its Member States, in a dialogue, in a spirit of partnership and transparency, on a shared and common understanding with regard to developing disembarkation arrangements; and
2. assessing the needs of partner countries in order to enable and support them in fully assuming their SAR-related responsibilities, in line with the main objectives outlined in the Commission Non-Paper.

In this initial phase of outreach, it will be paramount to communicate that, in the spirit of responsibility-sharing, regional disembarkation arrangements are to be based on a common set of established rules and procedures building upon existing international obligations to ensure effective and coordinated SAR operations, including safe and orderly disembarkation and post-disembarkation processes with differentiated solutions for persons in need of protection and irregular migrants. At the same time, it will be crucial to stress that the EU will continue to work on

the other strands of the European Council conclusions in order not to lose credibility vis-à-vis its partner countries and to establish a partnership on an equal footing. In order to facilitate the dialogue with the partner countries, the EU should also engage countries of origin, in particular sub-Saharan countries, to facilitate returns of irregular migrants from partner countries.

The outreach should be undertaken by interested Member States, e.g. by those who entertain privileged relationships with the respective third country, in close coordination and cooperation with the Commission and the EEAS, while taking into account the key roles of IOM and UNHCR in all relevant steps. The planning of outreach efforts should start as soon as possible, under the coordination of the Commission and the EEAS, together with the Presidency. The Council should be regularly informed of ongoing activities and the results achieved.

This outreach should go hand in hand with and take into account the regional approach already initiated by UNHCR and IOM (Geneva meeting, 30 July 2018) in response to the SAR challenges faced by coastal States and subsequent disembarkation in the Mediterranean, with the aim of encouraging inter-State dialogue and partnership and strengthening mutual trust. The outreach and the regional approach should be closely linked and mutually reinforcing, thereby contributing to working towards a broader regional concept and to react to developments on all migratory routes in a flexible manner, in particular as concerns SAR, including disembarkation.

Following this first phase of initial outreach, the EU should be in a position to further develop and deal with the details of specific disembarkation arrangements, including potential legal questions, as well as to shape the tailor-made packages that can be offered to specific partner countries in the framework of existing relations. While the targeted incentives and support measures will vary, depending on the needs of specific partners, it is clear that any concrete arrangement has to be in line with the basic principles underlying the concept, e.g. by avoiding the creation of pull factors, inter alia in the context of resettlement, and shifts to other migratory routes. It is also essential that, on the basis of the results of outreach activities, sufficient funds will be made available and Member States are prepared to actively contribute to the tailor-made packages of incentives and support measures.

Basic principles underlying the concept	Applicable international obligations	Potential incentives and support measures (non-exhaustive list)
<ul style="list-style-type: none"> ➤ Tailor-made approaches including targeted packages building on existing EU and Member States' support. ➤ Build on already existing partnerships / relations between EU and North African countries as a starting point, taking into account each country's specific political, legal, security and socio-economic situation. ➤ Clear and consistent communication on the concept, both within and between the EU Institutions and Member States, as well as with relevant partner organisations and potential partner countries. ➤ Full respect of international law. ➤ Key role of UNHCR and IOM. ➤ Involvement of all EU Member States (operational, financial, incentives, ...). ➤ No creation of pull factors. 	<ul style="list-style-type: none"> ➤ International law of the sea: 1982 UN Convention on the Law of the Sea, 1974 International Convention for the Safety of Life at Sea, 1979 International Convention on Maritime Search and Rescue and associated International Maritime organization Guidelines. ➤ International human rights and refugee law, including 1951 Geneva Convention and the principle of non-refoulement. ➤ United Nations Convention against Transnational Organized Crime and the Protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air. ➤ When sea movements are triggered by armed conflicts, application of international humanitarian law. 	<ul style="list-style-type: none"> ➤ Dedicated financial and technical support for SAR activities, disembarkation and post-disembarkation activities. ➤ Development of communication networks in order to enhance situational awareness at sea. ➤ Reception facilities in line with adequate, safe and dignified conditions. ➤ Development of biometric registration, including training and equipment. ➤ Assistance to cover essential needs. ➤ Support in the process of screening, identification of vulnerabilities, referrals, case processing, Refugee Status Determination. ➤ Voluntary resettlement ➤ Other protection pathways, such as humanitarian admission or private/community sponsorship programmes in close cooperation with Member States. ➤ Support for returns, including Assisted Voluntary Returns/ Voluntary Humanitarian Returns and Reintegration assistance; engagement with countries of origin to facilitate returns from North African partners. ➤ Support third countries in building up or

		<p>strengthening their asylum system.</p> <ul style="list-style-type: none">➤ Support for local solutions including local integration, temporary stay on compassionate grounds as well as applying for asylum in a third country, where applicable.➤ Support in combatting migrant smuggling and trafficking and in prosecuting criminal smuggling networks.➤ Other JHA-related incentives such as legal pathways for migration, visa facilities.➤ Enhanced cooperation with JHA Agencies where relevant.➤ Non JHA-related incentives, e.g. development, trade, transport, energy, culture.
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