



**COUNCIL OF
THE EUROPEAN UNION**

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**FRONT 80
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COMIX 385**

NOTE

from: Polish delegation

to: Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)

No. Cion prop.: 6898/10 FRONT 22 CODEC 222 COMIX 151 (COM(2010) 61 final)

Subject: **Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)**

Delegations will find attached a suggestion from the Polish delegation on the liability for damages and insurance during FRONTEX joint operations made at the Working Party on Frontiers on 11 May 2010.

In view of the growing number of joint operations coordinated by the FRONTEX Agency, in the opinion of Poland one should take into consideration a number of particular issues regarding the use of equipment owned by Member States during joint operations coordinated by the FRONTEX Agency.

1. Liability related to damage of equipment during joint operations or on the way to/from an operations

At present the provisions of the Regulation 2007/2004 do not determine how to solve the problem of damages of equipment which is provided for by a Member State in case it is damaged during the implementation of a joint operation or during transportation to the area of operation (such situation may take place on the territory of a Member State which does not participate in an operation as well as on the territory of a third country, i.e. emergency, unforeseen landing).

In the opinion of Poland, there is a need to determine precisely who is liable for damages in such cases, who covers the costs of equipment repair and its return to the sending country as well as who bears responsibility for damages brought about in such cases on the territory of third countries.

2. The issue of „complete” („general’) insurance of operations

The matters concerning damage to public or private property which may occur during FRONTEX joint operations are at present defined in Art. 10 b of the Regulation 2007/2004. In accordance with the above mentioned provisions liability for damages rests on a hosting country or a country which is sending officers to joint operations or other actions. It appears to be well grounded to provide for the possibility of a „complete” insurance of joint operations; such costs should be included in the budget of an operation.

Poland puts under consideration of the Presidency, the Commission and Member States the possibility of introducing law regulations in this regard.