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LIMITE

**FRONT 68
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COMIX 353**

NOTE

from: Netherlands 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 Netherlands delegation on Articles 3 to 8e of the above proposal for a Regulation made at the Working Party on Frontiers on 30 April 2010.

The Netherlands proposes to amend Articles 3, 3a, 3b, 4, 7 and 8e as follows:

Article 3

Joint operations and pilot projects at the external borders

1. The Agency shall evaluate, approve and coordinate proposals for joint operations and pilot projects made by Member States, including the requests of Member States related to circumstances requiring increased technical and operational assistance.

The Agency may itself initiate, in agreement with the Host Member State, joint operations and pilot projects in cooperation with Member States.

It may also decide to put its technical equipment at the disposal of Member States participating in the joint operations or pilot projects.

Joint operations and pilot projects should be preceded by a thorough risk analysis.

The Agency may also terminate *or suspend, after* consultation with member states concerned, *and a participating Member State may decide to withdraw from,* joint operations and pilot projects, if the conditions to conduct these initiatives are no longer fulfilled.

4. The Agency shall evaluate the results of the joint operations and pilot projects and transmit the detailed evaluation reports within 60 days following the end of the activity to the Management Board. The Agency shall make a comprehensive comparative analysis of those results with a view to enhancing the quality, coherence, efficiency and effectiveness of future operations and projects to be included in its general report provided for in Article 20(2)(b). *In case of incidents during the implementation of a joint operation or pilot project, the Coordinating Officer as referred to in article 3b (5) shall immediately report to the Agency and the Member States concerned.*

Article 3a and Article 8e

1. f) command and control provisions, including the names and ranks of the host Member State's border guards responsible for cooperating with the guest officers and the Agency, ~~in particular those of the border guards who are in command during the period of deployment, and the place of the guest officers in the chain of command;~~
h) a reporting and evaluation scheme containing detailed provisions on *incident* reporting ~~of unforeseen events~~, *which accord responsibility to the Coordinating Officer as referred to in article 3b (5) for collecting information provided by participants of joint operations or pilot projects*, and benchmarks for the evaluation report and final date of submission of the final evaluation report in accordance with Article 3(4).

Article 3b

3. Member States shall make the border guards available for deployment at the request of the Agency, unless they are faced with a situation substantially affecting the discharge of national, **European and other international** tasks. Such a request shall be made at least thirty days before the intended deployment. The autonomy of the home Member State in relation to the selection of staff and the duration of their deployment shall remain unaffected.

Article 4, alinea 3

The Agency shall carry out studies on the ~~preparedness~~ **needs, equipment and resources** to deal with possible upcoming challenges, including present and future threats and pressures on certain sectors at the external borders of the Member States of the European Union. The results of these studies shall be presented at least once per year to the Management Board of the Agency.

Article 7

3. Member States shall contribute to the technical equipment pool referred to in paragraph 2. To the extent that it forms part of the minimum number of equipment ~~for a given year~~, **the member states shall make arrangements with the agency on deployment of the equipment for a specific period of time in specific Joint Operations as described in the working programme**. Member States shall make their technical equipment available ~~within 30 days~~ for deployment ~~at the request of the Agency~~ **in accordance with bilateral arrangements agreed between the Member State concerned and Frontex**, unless they are faced with an ~~exceptional~~ situation substantially affecting the discharge of national, **European and other international** tasks. Their contributions to the technical equipment pool shall be reviewed annually.