



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 24 February 2010

**6435/3/10
REV 3**

LIMITE

ASIM	27
FRONT	18
COMIX	131

NOTE

from:	Presidency
to:	Council/Mixed Committee
Subject:	Draft Council Conclusions on 29 measures for reinforcing the protection of the external borders and combating illegal immigration

Following the communication of 28 January 2010 from France to the Presidency¹ on a draft roadmap for strengthening the external borders, Coreper on 3 February 2010 asked JHA Counsellors to prepare a set of Council Conclusions with a view to their adoption at the February 2010 JHA Council.

¹ 5963/10 ASIM 15 FRONT 14 COMIX 93

Having in mind the elements in the communication by France and those contained in the proposal made in January 2010 by the Presidency for Council Conclusions on shared management of the external borders², the Presidency prepared the draft Council Conclusions in 6119/10 ASIM 18 FRONT 15 COMIX 98. On the basis of discussions on this text by JHA Counsellors/Mixed Committee on 9 February 2010 and written comments made subsequently by delegations, the Presidency prepared the revised text in 6315/10 ASIM 25 FRONT 17 COMIX 123, which was discussed by JHA Counsellors/Mixed Committee on 12 February 2010. The further revised text in 6435/10 ASIM 27 FRONT 18 COMIX 131 was examined by JHA Counsellors on 16 February 2010.

Following the examination of the draft Council Conclusions in Coreper on 18 and 24 February 2010 on the last occasion on the basis of basis of 6435/2/10 REV 2 ASIM 27 FRONT 18 COMIX 131, the Presidency has prepared the revised text set out in the Annex.

Council is invited to agree on and adopt the draft Council Conclusions as set out in the Annex.

² 5127/10 FRONT 5 COMIX 16

Draft

**Council Conclusions on 29 measures for reinforcing the protection of the external borders
and combating illegal immigration**

The Council:

- a) Taking into account the momentum created for the further development of the area of freedom, security and justice represented by the entry into force of the Lisbon Treaty and by the political priorities included in the Stockholm Programme, the European Pact on Immigration and Asylum, the Global Approach to Migration and the European Council Conclusions of June and October 2009;
- b) Bearing in mind that the responsibility for the control and surveillance of external borders lies with the Member States;
- c) Underlining also the importance of the principle of solidarity and fair sharing of responsibility in the integrated management of the external borders of the Member States of the European Union, the need for active cooperation between Member States in this regard and the need to further enhance the efficiency of the FRONTEX agency so as to cope better with the challenges the Union is facing in this field;
- d) Stressing the need to share and assess analysis of the continuing illegal arrivals of migrants at the southern maritime borders, as well as the eastern land borders, as shown in particular by recent events in the Mediterranean area, and of the smuggling of migrants and trafficking in human beings, which often have tragic consequences; and to take a series of measures immediately, in the short term and medium term, in order to address the challenges ;
- e) Underlining that all measures and actions taken as a consequence of these conclusions shall fully respect human rights, the protection of persons in need of international protection and the principle of non-refoulement;

- f) Having in mind that the collection, processing and exchange of the information referred to in the present conclusions must take place in accordance with relevant EU and national law, especially that on data protection;

HAS ON THE BASIS OF A DETAILED POLITICAL DEBATE ON THESE ISSUES ADOPTED THE FOLLOWING CONCLUSIONS:

Concerning the activities of FRONTEX, the Council has agreed:

1. To seek agreement as a matter of urgency on the Commission proposal for a Regulation of the European Parliament and of the Council amending the FRONTEX Regulation, in order to reinforce the capabilities of the FRONTEX Agency.
2. To encourage FRONTEX and Member States concerned to increase the effectiveness of the implementation of the financial measures targeted on operational activities and exploit all existing instruments, including the mechanism for the creation of Rapid Border Intervention Teams (RABIT) in situations of urgent and exceptional pressure, to combat illegal immigration.
3. To ask Member States to ensure that resources made available in the framework of the Central Register of Available Equipment (CRATE) can be used in concrete joint operations when needed.

4. To improve operational cooperation with third countries of origin and transit, in order to improve joint patrolling on land and at sea, upon consent of the Member State concerned, return, and collection and exchange of relevant information within the applicable legal framework, and other effective preventive measures in the field of border management and illegal immigration.
5. To underline the importance of the role of the European Asylum Support Office (EASO) in developing methods to better identify those who are in need of international protection in mixed flows and in cooperating with FRONTEX where ever possible, and to welcome the development of the regional protection programs and the enhancement of the dialogue and cooperation on international protection with third countries
6. To improve the collection, processing and systematic exchange of relevant information between FRONTEX, other EU Agencies and Member States.
7. To further develop joint flights organized and co-financed by FRONTEX for joint return operations at European level, including the hiring by FRONTEX of aircraft for the purpose of such operations.
8. To invite FRONTEX to develop, as part of its already comprehensive training programmes, an “Erasmus” type pilot programme for border guards in order to lay the foundation for a European culture of border guards of the Member States.
9. To invite FRONTEX to implement its decision to carry out a pilot project for the creation of an operational office in the eastern Mediterranean region, in Piraeus, as soon as possible in 2010. The Council takes note that Frontex has agreed that, on the basis of an independent external evaluation, it may decide whether to pursue the pilot project and/or establish other Frontex operational offices as appropriate, and invites FRONTEX to report to Council on the matter.

Concerning the development of the European Surveillance System - EUROSUR, the Council has agreed:

10. To call on the Member States to implement the phases and steps laid down for the development of EUROSUR as soon as possible, in order to reinforce cooperation and Member States' border surveillance capabilities. The Council invites the European Commission to report on EUROSUR progress on mid-2010.
11. To urge relevant Member States to establish or further develop a single national border surveillance system and a single national Coordination Centre. A network of national Coordination Centres, compatible with the FRONTEX Information System, and available on a 24/7 basis in real time, should be fully operational on a pilot basis as of 2011, involving as many Member States of the southern and eastern external borders as possible. The Commission is invited to present legislative proposals if necessary to consolidate the network of Member States by 2013.
12. To create a Common pre-frontier intelligence picture in order to provide the Coordination Centres with pre-frontier information provided by Member States, Frontex and third countries. To this end, the Council invites Frontex, in close cooperation with the Commission and the Member States to take the necessary measures to implement the study carried out by the Commission in 2009.
13. To encourage cooperation by neighbouring third countries in border surveillance. It is essential that within the territorial scope of EUROSUR and in the current financial framework, financial and logistic support from the European Union and its Member States be made available to the third countries whose cooperation could significantly contribute to controlling illegal immigration flows, in order to improve their capacity to manage their own borders.

14. To invite the Commission to report before the end of 2010 on how the conclusions of the Global Monitoring for Environment and Security (GMES) border surveillance group on common application of surveillance tools, such as satellites, could be implemented in the EU land and sea borders.

Concerning the fight against illegal immigration networks and trafficking in human beings, the Council has agreed:

15. To ensure that the dismantling of these networks remains a high priority for action by Europol, Eurojust and Frontex as well as the systematic exchange of relevant information between these agencies.
16. To encourage Member States to improve the sharing of information concerning the new modus operandi of networks involved in illegal immigration, trafficking in human beings and falsification of documents, and to improve the use of existing databases, including the False and Authentic Documents Online (FADO), thus promoting early detection of those criminal activities at borders and the exchange of best practices.

Concerning solidarity and the integrated management of external borders by the Member States, the Council has agreed:

17. To request Frontex and the Member States concerned to further develop the European Patrols Network (EPN) in order to generalize bilateral joint maritime patrols, in particular between neighbouring Member States at the southern and eastern maritime borders, taking into account the experience gained on joint police patrols in the context of the Prüm Decision, and to ensure the full integration of the EPN in the EUROSUR network.

18. To encourage Member States to optimise the use of the European External Borders Fund annual programmes for the period 2007-2013 to improve the capabilities of their border guards and the development of EUROSUR, including through the creation and development of the single national coordination centres, and considering the specific situation of the Member States.
19. To promote solidarity with the Member States facing particular pressures through capacity building and practical cooperation in the areas of asylum, migration and border control, building on their own responsibility in these areas, and in line with the relevant European Council Conclusions
20. With regard to the introduction of new technology at the external borders, to stress the need for further coordination, integration and rationalisation of the different types of checks and the need to ensure the interoperability of the systems concerned, and to use cost/benefit criteria for any decision on establishing new systems.
21. To further develop the networks of immigration liaison officers posted by Member States in third countries and to enhance their coordination, cooperating with FRONTEX as necessary.

Concerning the cooperation with third countries, the Council has agreed:

22. To ensure that the migration policy objectives are at the centre of the political dialogue with relevant third countries of origin and transit, with a view to the strategic, evidence based and systematic implementation of the Global Approach to Migration in all its dimensions, i.e. legal migration, illegal immigration and migration and development. This also requires, as a matter of principle, that all parties concerned assume their responsibilities in terms of return and readmission of migrants entering or staying illegally, including those migrants who have entered or tried to enter the European Union illegally from their territory.

23. To intensify efforts at the level of the European Union and of the Member States to return illegally staying third-country nationals, as part of an effective and sustainable EU migration policy which includes using the full political weight of the EU and coherent use of instruments from different EU policies to secure return and readmission cooperation with third countries. When allocating financial means for this purpose, voluntary return should be kept in focus.
24. To enhance in particular the implementation of the Global Approach in the dialogue on migration with the main countries of origin and transit, such as, in accordance with the Stockholm Programme, those of the Mediterranean area, the East and South-Eastern Europe and Africa. This process may cover, on a case by case basis, all aspects of migration, including also cooperation on and support of border management, return and readmission, and, where appropriate, mobility issues. In doing so, the EU will promote human rights and the full respect for relevant international obligations. Dialogue and cooperation should be further developed also with other countries and regions such as those in Asia and Latin America on the basis of the identification of common interests and challenges.
25. To implement actively the European Council Conclusions of June and October 2009, including in particular by taking forward the dialogue on migration with Libya, with a view to setting up in the short term an effective cooperation. The Commission is invited to explore, as a matter of urgency, a cooperation agenda between the European Union and Libya with a view to including initiatives on maritime cooperation, border management (including possibilities for the development of an integrated surveillance system), international protection, effective return and readmission of irregular migrants and issues of mobility of persons.

26. To welcome the constructive resumption of the formal negotiations on a EU/Turkey readmission agreement, which makes provision for the return of third country nationals, and to call for its conclusion as a matter of urgency, and to stress that adequate implementation of already existing bilateral readmission agreements remains a priority. Building on the dialogue now under way with Turkey, the Council invites the Commission, the Member States and Turkey to further develop cooperation on migration, international protection and mobility issues. The Commission is also invited, in the context of the existing Instrument for Pre-accession Assistance (IPA) financial framework, to explore possibilities to provide adequate financial means to improve Turkish capacity to tackle illegal migration, including support to the implementation of the Turkish integrated border management system.
27. To underline the importance of swift finalisation of the negotiation of Article 13 of the Cotonou Agreement, the revision of which should seek to reinforce the three dimensions of the Global Approach, and in particular the effectiveness of readmission obligations.
28. To invite the Commission to identify the necessary means to support enhanced capacity building and infrastructures in relevant third countries, so that they can control efficiently their external borders and tackle illegal immigration, taking also into account the assessments made by FRONTEX.

29. To invite the Commission to report on the implementation of these Conclusions by the end of 2010.