



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 10 September 2007

12712/07

LIMITE

**ASIM 61
FRONT 94
COMIX 778**

NOTE

from : Presidency
to : Permanent Representatives Committee/Council
Subject : **Draft Council Conclusions on further reinforcing the EU's Southern
Maritime Borders**

The JHA Council on 12 June 2007 discussed the situation on the EU's Southern Maritime Borders. With reference to the conclusions of the Presidency following the meeting and a declaration of the Presidency and Vice President of the Commission Franco Frattini on recent incidents in the Mediterranean and suggestions put forward by MT, the Council mandated Coreper to discuss how to ensure a proper follow-up of the issue.

Coreper discussed the matter at its meeting on 27 June 2007 and agreed the procedure for further discussions on the matter.¹

In accordance with the instructions given by Coreper, SCIFA/Mixed Committee had a first discussion on the matter at its meeting on 25 July 2005. On that occasion, the Presidency invited delegations to reply to a number of questions related to the issues raised at the Council.

¹ 11088/07 ASIM 52 and 11305/07 ASIM 54.

Based on the replies received by delegations, the Presidency suggested to move the matter forward by the adoption of a set of Council conclusions.

Following discussions between Heads of delegations of SCIFA/Mixed Committee on 5 September 2007, the Presidency proposed the draft Council Conclusions set out in 12667/07 ASIM 60 FRONT 93 COMIX 770.

At the meeting of JHA Counsellors on 7 September 2007, agreement was reached on the attached revised text, subject to a scrutiny reservation on point 8 by SE.

Coreper is asked to confirm agreement on the draft Council Conclusions and to invite the Council to adopt them.

DRAFT COUNCIL CONCLUSIONS ON FURTHER REINFORCING THE EU's SOUTHERN MARITIME BORDERS

The Council:

- a) Recalling the need to build on the measures already taken to reinforce the European Union's southern maritime borders for the purpose of more effectively combating illegal migration and responding to the human tragedies related to illegal migration by sea;
- b) Recalling the Conclusions adopted by the Council on reinforcing the southern external maritime borders on 5/6 October 2006 and welcoming the progress made in implementing key measures identified in those conclusions;
- c) Recalling the discussion in Council on the situation at the European Union's southern maritime borders on 12/13 June, including suggestions put forward for the sharing of responsibilities in certain circumstances, and noting the work already being undertaken on those suggestions and related possibilities;
- d) Noting that any such action must be within the framework of the Global Approach to migration as adopted by the European Council and must be fully consistent with European and International law; in principle any such action should be capable of being applied to any Member State facing similar difficulties, although it is also necessary to consider temporary solutions for particular pressures faced by individual Member States;
- e) Recognising the contribution international organisations can make in that regard;
- f) Reaffirming that cooperation with third countries is indispensable for saving lives and combating illegal immigration by sea;

ADOPTS the following Conclusions :

- A. Regarding immediate steps for the purpose of further reinforcing the EU's southern maritime borders, the Council :
 1. Encourages Member States, in a spirit of solidarity and shared responsibilities, to provide support (e.g. on return operations, reception conditions, case working expertise or voluntarily undertaking to take responsibility for persons such as asylum seekers, refugees, beneficiaries of subsidiary protection and/or unaccompanied minors) on a bilateral basis to individual Member States facing a particular pressure exacerbated by factors such as their geographical location, the degree to which neighbouring third countries fulfil their international obligations on search and rescue, and the current status of cooperation with those countries.

2. Calls on the Commission and the Member States to follow-up on the contacts recently initiated with third countries with a view to launching and/or reinforcing concrete cooperation on border control, search and rescue and return (including identification and documentation); such cooperation should fully respect international law and the right to international protection and take place within the framework of the Global Approach to Migration.
3. Underlines the need to promote close cooperation with third countries of origin and transit, including those third countries identified for the purpose of priority work, in order to:
 - enhance their capacity to manage their own borders;
 - help them to fulfil their responsibilities as regards search and rescue;
 - fight organised crime involved in trafficking in human beings and smuggling of human beings;
 - enhance their capacity to provide protection to those who need it;
 - provide an effective framework for returns including through readmission agreements.
4. Welcomes the initiative of the Portuguese Presidency to strengthen the dialogue with all Euromediterranean partners on immigration related issues on the occasion of the Ministerial EUROMED meeting to be held on 18 and 19 November in Portugal.
5. Encourages Member States to share best practices and experiences gained through bilateral cooperation with third countries, and calls for better coordination and sharing of information with regard to support to third countries provided at European and national level respectively.
6. Encourages Member States and the Commission to ensure that the new funds made available in the areas of borders, return and asylum, as well as the funds now available for action in this area in third countries, are exploited to the full for the purpose of giving a concrete expression to the principle of solidarity through a targeted and coordinated approach.
7. Encourages Member States, the Commission and FRONTEX to further develop, in cooperation with relevant partners, including UNHCR, the IOM or other international organisations, the integrated approach to border control and surveillance operations, especially in high-risk areas, and the fight against illegal immigration, taking account of not only interception but also protection needs and repatriation, and with due respect of international law and migrants' rights to dignified treatment and to seek international protection.

8. Invites Member States¹ and FRONTEX to identify and implement measures of a longer-term nature concerning maritime patrols at the southern external border, including :
 - joint operations at a limited number of high-risk areas, identified in accordance with FRONTEX risk analyses;
 - the European Patrols Network, where the possibility of expanding joint operational areas to the high seas should be examined;
 - the promotion of participation of relevant third countries in those measures.
9. Considers that FRONTEX should be equipped with the necessary resources and calls on Member States to provide the necessary participation, including with technical means, to make such measures a reality in 2008.
10. Calls for work to be taken forward urgently on the implementation of the Council Conclusions of 12-13 June 2007 on the improvement of the cooperation between Member States, the Commission and FRONTEX in the field of return. In particular the further development of ICONet as an information network for the Member States should be promoted in order to enable its systematic use.
11. Requests Member States to explore possibilities for mutual support in making return operations more effective, including by making use of existing bilateral agreements and diplomatic channels with third countries concerned where appropriate and to promote the implementation of the readmission obligations under Article 13 of the Cotonou agreement.
12. Calls on Member States to make maximum use of voluntary return programmes and of existing Community funds for assisted voluntary returns.

B. For the purpose of taking work forward,

13. Invites the Commission, FRONTEX and Member States to complete as a matter of priority the analysis of the law of the sea as relevant for FRONTEX joint operations, and requests the Commission to report back to the Council before the end of the year.
14. Invites the Commission to continue its examination of the scope for further measures to address the particular pressures which Member States may be faced with and the suggestions made by Malta to the Justice and Home Affairs Council on 12-13 June 2007 and to report back to Council as soon as possible.
15. Invites the Commission and Member States, in the framework of the debate launched by the Green Paper on the Common European Asylum System, to pay particular attention to the development of asylum expert teams at the points of arrival and to explore solutions to support Member States in exceptional situations during which their asylum systems and reception capacities are under particular pressure and to report back to the Council.

¹ SE entered a scrutiny reservation on the reference to Member States.