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Subject :	Proposal of a plan for the management of the external borders of the Member States of the European Union

Delegations will find attached a proposal of a plan for the management of the external borders of the Member States of the European Union.

**PROPOSAL OF A
PLAN FOR THE MANAGEMENT OF THE EXTERNAL BORDERS OF THE MEMBER
STATES OF THE EUROPEAN UNION
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I. INTRODUCTION

- (1) The external borders of the EU play a key role in defining and protecting the area of freedom, security and justice that we all desire. The control and surveillance of borders contribute to managing flows of persons entering and leaving that area and help protect our citizens from threats to their security. Besides, they constitute a fundamental element in the fight against illegal immigration.
- (2) In addition, in an area like Schengen, characterised by the suppression of internal border controls, the surveillance and control of external borders is essential.
- (3) According to the Conclusion No. 42 of the Laeken European Council of 14 and 15 December 2001 “ *Better management of the Union’s external border controls will help in the fight against terrorism, illegal immigration networks and the traffic in human beings. The European Council asks the Council and the Commission to work out arrangements for cooperation between services responsible for external border control and to examine the conditions in which a mechanism or common services to control external borders could be created (...).*”
- (4) This European Council conclusion calls attention to the fact that coherent, effective common management of the external borders of the Member States of the Union will boost security. It also serves to secure continuity in the action undertaken to combat terrorism, illegal immigration and trafficking in human beings as stated in the comprehensive plan to fight against illegal immigration and trafficking in human beings in the European Union (Doc. 6621/1/02 REV 1 JAI 30 FRONT 19 MIGR 10 VISA 29).
- (5) In accordance with this conclusion, the European Commission on 7 May 2002 approved a Communication to the Council and the European Parliament concerning “an integrated management of the external borders of the member States of the European Union”, that includes an analysis of the current situation in this field, both at operational level and at normative level, and proposes a number of measures and actions to be implemented at European Union level (COM (2002) 233 final).

- (6) The Council endorsed on 7 December 2001 the European management concept on border control (doc. 14570/01 FRONT 69). This concept provides one basis for further development of the operational cooperation between the member states. It also takes into account the participation of the candidate countries in such cooperation.
- (7) Likewise, at the Ministerial Conference held in Rome on 30 May 2002, a “Feasibility study to set up an European Border Police” was presented which had been prepared by experts from Germany, France, Belgium, Spain and Italy, under the leadership of the latter country. The Feasibility Study outlines an organisational model to achieve a number of objectives aimed at strengthening the European external borders without impinging upon the national sovereignty of Member States, and allowing from the beginning the participation of candidate countries as observers. The Feasibility Study proposes a model built as a polycentric network, co-ordinated by an appropriate body, which can be immediately and concretely set up, and then gradually progress.
- (8) Finally, in the Workshop on Police and Border Security under the OISIN Programme, which Finland, Belgium and Austria are implementing, a number of measures and actions are also prepared which must be effected in order to achieve a higher level of security at the external borders of the Member States of the European Union.
- (9) The above-mentioned initiatives, in particular the Commission's Communication, point to objectives which are to a large extent common which contribute to define the Plan for the management of the external borders of the Member States of the European Union.
- (10) This Plan has been drafted as a pragmatic guide which provides for several measures that must be implemented progressively in order to achieve an adequate level of security at the external borders of the Member States. Some of these measures complement those included in the chapter on border management measures in the “Comprehensive plan to combat illegal immigration and trafficking of human beings in the European Union” (doc. 6621/1/02 REV 1).

- (11) The plan includes an annex with a scoreboard that distinguishes between measures and actions to be undertaken in the short term and in the medium term. "Short term" means within a period of one year while "medium term" means between three and five years depending on the nature of the specific measure.
- (12) A second annex has been introduced, clarifying some relevant terms which can be found throughout this Plan.
- (13) One of the objectives of this Plan is to propose mechanisms for working and co-operating at European Union level which will permit those responsible for checks and surveillance at the external borders of the European Union to co-ordinate their operational activities as part of an integrated strategy. The intention is to agree on priorities for immediate operational actions and to arrive at a coherent framework for common action in the medium to long term. The guidelines and provisions advocated herein have a dynamic character in time. They are designed to be established, in the first instance, as a development of the Schengen acquis, in the framework of the Treaties as they currently exist. In this regard, Norway and Iceland should be involved as appropriate, in accordance with the provisions of the Association Agreement between them and the Council concerning the development of the Schengen acquis. Above all, the purpose is to create a dynamic of operational actions founded on the Justice and Home Affairs aspect of the external borders.
- (14) Moreover, enlargement will bring new challenges as regards external border protection. To a large extent the future Member States will become responsible for the internal security of the Union. Consequently there is a need to develop a coherent approach in close co-operation with the future Member States, in extending actions undertaken by the European Union over the past few years.

- (15) This Plan describes the acquis and existing operational practices, so as to lead to a diagnosis of the needs of the European Union taking enlargement into account. On the basis of this diagnosis, it proposes the development of a common policy on management of the external borders of the Member States of the European Union, incorporating components which are regarded as inseparable.

II. DESCRIPTION OF THE SITUATION CONCERNING THE CROSSING OF EXTERNAL BORDERS

- (16) We must begin by briefly describing the legal and institutional framework resulting from the Schengen acquis and current operational practices, in order to lead to a diagnosis of needs.

a) The legal and institutional framework

- (17) Since the Convention Implementing the Schengen Agreement (hereinafter referred to as the "Schengen Convention") came into force on 26 March 1995, checks and surveillance at the external borders of the Member States party to the Schengen Acquis, have been governed by uniform common principles. The content of these principles is laid down in Title II, Chapter 2 of the Schengen Convention. The detailed rules for applying them are laid down in the Common Manual for External Borders.
- (18) Article 3 of the Schengen Convention provides that "External borders may in principle only be crossed at border crossing points and during the fixed opening hours". Article 5 of the Schengen Convention lays down the conditions of entry to be fulfilled by foreign nationals for a stay not exceeding three months in the common area of free movement, as well as the legal provisions governing the reaction of services responsible for border controls where persons do not fulfil the conditions of entry.

- (19) Article 6 of the Schengen Convention lays down Member States' obligations with regard to checks and surveillance at external borders. All persons, including Union citizens and citizens having rights under Community law, when crossing the external borders at border crossing points, shall at least have their travel documents checked in order to establish their identities. Surveillance is exercised in the zones located between the authorised border crossing points in order to dissuade persons from crossing the external border illegally. Member States must ensure that the same standards apply throughout the external borders.
- (20) There are other elements of the Schengen acquis indissociable from checks and surveillance at external borders such as:
- articles 26 (carriers' liability) and 27 (liability for assistance to unlawful immigration for lucrative purposes) of the Schengen Convention;
 - the provisions of Article 71. 3 relating to the strengthening of checks on the movement of persons, goods and means of transport, "to combat the illegal import of narcotic drugs and psychotropic substances";
 - horizontal provisions such as the Schengen Information System (SIS), which are also implemented at external borders.
- (21) Article 101(1)(a) of the Schengen Convention provides that the "*authorities responsible for (...) border checks*" have access to all "*data entered [in the SIS] and the right to search such data directly*". The purpose of this provision is to make the external border operate as a barrier or filter from the point of view of internal security in the broad sense. Moreover, consular authorities have access to alerts issued on the basis of Article 96 of the Schengen Convention for the purposes of refusing entry to certain aliens. They are required to consult the SIS before issuing a visa abroad.

- (22) In addition, Member States have developed bilateral forms of cooperation *in situ* at the external borders. This cooperation consists i.a. of agreements based on Article 7 or Article 47 of the Schengen Convention.
- (23) The Schengen acquis has now been integrated into the framework of the European Union by means of a Protocol annexed to the Treaty establishing the European Community and to the Treaty on the European Union. Two Council decisions of 1999 defined the Schengen acquis in detail and determined the legal basis for most of the provisions of this acquis, in conformity with the relevant provisions of the Treaties. In particular, it was decided that the provisions of Articles 3, 5 and 6 of the Schengen Convention had a legal basis within Title IV of the Treaty establishing the European Community.

b) The evaluation system

- (24) The Working Party Schengen Evaluation has been given a remit covering precise matters. Under this remit, the manner in which checks and surveillance are carried out at external borders can be evaluated for all Member States, as can practice when issuing visas, police and judicial co-operation at internal borders, and use of the SIS. This evaluation mechanism serves two distinct purposes:
- to evaluate if new Member States fulfil the conditions laid down in order to apply the Schengen acquis;
 - to check that Member States implement the Schengen acquis properly.
- (25) In the case of Member States applying the Schengen acquis, the evaluation missions produce a report. However, all the logical conclusions cannot be drawn from such report, for instance as regards penalties or operational and financial aid to one or more Member States. Nonetheless, this mechanism resulting from the Working Party Schengen Evaluation does give a starting point for strengthening the external borders evaluation function in terms of internal security.

c) Current operational practices

- (26) Article 6 of the Schengen Convention provides that checks in accordance with uniform principles are carried out “*within the scope of national powers and national law and taking account of the interests of all Contracting Parties*”. That means that each Member State is free to entrust checks and surveillance at external borders to the authorities of its choice, according to its own national structures¹.
- (27) Financially speaking, the cost of staff and supplies is borne by the national budget of each Member State. This can be extremely expensive for some of them, because of their geographical features, in particular for the surveillance of maritime borders. Working methods, staff and resource deployment and management rules all follow primarily national considerations, despite the provisions of Article 6 of the Schengen Convention. However, in other fields, like customs, major Community contributions exist.

d) Problems when applying the Community acquis

- (28) Article 5 of the Schengen Convention provides that to be admitted to the common area of freedom of movement, foreign nationals must not “*be considered to be a threat to public policy, national security or the international relations of any of the [Member States]*”. Implementing this principle uniformly at the external borders is far from easy, since the situation of persons is assessed on the basis of national criteria, which vary from one Member State to another.
- (29) Possible differences in national legislation and administrative practice can generate security discrepancies between sections of external borders controlled by different Member States. The interpretation of the rules concerning SIS alerts varies from one Member State to another. These factors necessarily affect the homogeneity of the management of external borders from an internal security point of view for the common area of freedom of movement.

¹ The Schengen Catalogue on the best practices, adopted by the Council in 28 February 2002, includes the following recommendation: "Streamlined and functional ministerial competences for border management. Centralised supervision and instructions for border checks and surveillance under the auspices of a Ministry working in the field of Justice and Home Affairs."

- (30) In addition, Article 6 of the Schengen Convention provides for checks on the entry and exit of all persons who cross external borders, but in practice exit checks play a secondary role. This situation calls for a detailed review in terms of the sound implementation of bans on leaving the territory or discreet surveillance of persons likely to threaten security.

e) The main needs identified

- (31) According to the situation described in the above-mentioned paragraphs, the following needs can be identified:
- (32) There is a need for a more operational co-operation and co-ordination unit for practitioners of checks and surveillance at external borders. Closer integration between tasks performed at external borders and those performed by other authorities within the common area of freedom of movement should be achieved.
- (33) It is necessary to harmonise and improve the practices of national units responsible for checks and surveillance at external borders.
- (34) A better operational consistency has to be secured between activities at the external borders and activities within the common area of freedom of movement.
- (35) A regular follow-up must be arranged between those responsible for management and operational forecasting regarding staff and equipment deployment.
- (36) A system must be introduced that enables those responsible for operational services to share common risk analysis so as to treat their operational objectives on a hierarchical basis and co-ordinate them in European Union terms.
- (37) Certain existing legal provisions concerning checks and surveillance at the external borders need to be amended.
- (38) A financial and operational burden-sharing system, that implies the implementation of different measures, must be studied.

(39) A common standard for border guard training is needed.

III MEASURES AND ACTIONS FOR AN INTEGRATED MANAGEMENT OF THE EXTERNAL BORDERS OF THE MEMBER STATES OF THE EU

(40) To offer a coherent response to all the needs, which have been expressed in a scattered fashion by the Member States and are described above, it is necessary to structure projects and ensure continuity within a common policy of integrated management of external borders. This common policy should include at least five mutually interdependent components:

- A. Common operational co-ordination and co-operation mechanism,
- B. Common integrated risk analysis,
- C. Personnel and inter-operational equipment,
- D. Common corpus of legislation,
- E. Burden-sharing between the Member States and the Union.

(41) The first three components are characterised by their operational nature. In this regard the Feasibility Study co-ordinated by Italy identifies sixteen common objectives while the Project promoted by Austria, Belgium and Finland, currently underway, identifies twelve measures to strengthen co-operation. All these proposals point in the same direction, and are similar, if not identical. The centres envisaged in the network structure referred to in point A.3 below could contribute to the operational realisation of the measures or objectives identified by the external borders practitioners unit (see point A.1 below)¹.

(42) The guidelines to be followed and measures to be taken need to be specified for each of these components.

¹ I entered a reservation.

A. Common operational co-ordination and co-operation mechanism

(43) In order to set up this mechanism, the following instruments should be taken into account:

Measures to be taken in the short-term:

1. The setting up of an external borders practitioners common unit

(44) The working principles of such a common unit could be as follows:

- Acting as “head” of the common policy on management of external borders.
- Acting as “leader” coordinating and controlling operational projects on the ground, in particular in crisis situations.
- Acting as manager and strategist to ensure greater convergence between the national policies in the field of personnel and equipment.
- Exercising a power of inspection, in particular in the event of crisis or if risk analysis demands it.
- To increase operational coordination between the external border management and other security authorities.

(45) The unit, meeting within the framework of SCIFA, would be the body tasked with the necessary co-ordination of the network structure referred to under point A.3 and of all other measures analysed in this Plan¹. This unit shall be composed of the heads of the border control services of the Member States who will be assisted by the Working Party on Frontiers and, according to the nature of the specific subject, by other competent Working Parties of the Council (e.g. Schengen Evaluation, Visa, CIREFI, etc.).

¹ I entered a reservation.

- (46) For the exercise of its inspection function, the common unit would use as a starting point the mandate of the Standing Committee on the evaluation and implementation of Schengen, which is part of the acquis but which could be improved and strengthened without dissociating the link which this mandate establishes between first pillar and third pillar.
- (47) In any event, whether in the short term or the longer term, the functions exercised by the common unit would include activities to improve the effective implementation of Union law but they would involve no legislative proposals and no implementing measures within the meaning of Article 202 of the EC Treaty. The first challenge of this common unit would be to launch its work systematically and to reach the respect and trust of the parties involved.
- (48) The framework for the activities exercised by this common unit would also be the best forum to gradually receive the new states applying for accession to the Union. The full participation of the new Member States in the various activities of the common unit would enable them to proceed at the same rhythm as the implementation by each Member State of the Schengen acquis.
- (49) Besides, the common unit could be requested to conduct an analysis to develop the tool of a permanent process of data and information exchange and processing, which is considered below.
- (50) In accordance with the new mandate given to the High Level Working Group on Asylum and Migration that confirms the cross-pillar approach of the migratory phenomenon, the common unit should take into account the work done by this group, in particular with regard to relations with countries of origin and transit.

2. National contact points for border management

- (51) The creation of a national contact point for border management issues must be considered as a necessary tool in order to facilitate more unified and effective co-operation between the Member States. These contact points with clearly defined tasks would guarantee that all valuable information reaches the relevant competent authorities rapidly e.g. if an alert is required at the EU's external borders. This question is also very closely linked to the development of the common unit. It could serve as a communication link between designated heads of national border guard authorities in the EU.
- (52) The value of these kinds of contact points will increase after the enlargement of the EU.

3. The setting up of a network structure

- (53) A network structure could be set up, articulated, where appropriate, in a series of ad-hoc centres each of them related to the implementation of the specific measures included in this Plan¹.
- (54) The centres are to be considered as operational centres with a little nucleus of support and assisted by a certain number of advisors or experts. These advisors or experts, coming from the Member States interested in the diverse objectives, should contribute meaningfully to their best attainment.
- (55) The network would be open to all the Member States, making possible that those Member States interested in the further implementation of specific measures, should contribute fruitfully to their optimal achievement.
- (56) Each centre should have a real degree of operational autonomy and specialisation, being at the same time tightly interdependent with the other centres².

¹ I entered a reservation.

² I entered a scrutiny reservation.

4. Joint operations at external borders

- (57) Using the experience gained from recent joint operations such as the High Impact Operation under Belgian Presidency and the RIO I and RIO II under Spanish Presidency, the following characteristics can be taken into consideration:
- (58) Joint operations are carried out according to operational needs pinpointed and decided on by the heads of MS' border services. Joint operations on the basis of intelligence and common risk analysis could be based on a long-term action plan but should also respond to the immediate needs at the external borders. The respective Member States shall undertake to provide resources (experts and equipment) for joint operations. Other bodies, including Europol where appropriate, could be involved in all phases of the operations and facilitate information and intelligence exchange and the preparation of activity reports.
- (59) The following can therefore be given as a definition for joint operations: common border control operations along the whole or part of the existing and/or future external borders (land, sea, air) of the European Union.

5. Pilot Projects

5.1 International Airports Plan

- (60) This is the pilot project identified in the Feasibility Study.
- (61) 5.1.1 The interest of this measure lies in the following facts:
- a) All EU Countries have an international airport; this is therefore a common factor;
 - b) Each airport is a closed area in which border controls are carried out by selected and specialised bodies;
 - c) These facts allow the testing and establishment of standard procedures, that can be applied to other types of borders.

- (62) The Plan could consist in exploring the possibility of improving the existing common operational standards and procedures, and their organic collection in the “practical guide” that will be elaborated as a basis for common training. One objective could be the realisation of a remote-access, real-time database, in which to insert all data and information collected.
- (63) The adequacy of the standards, procedures, common training and database would be constantly verified and updated, through the setting up of mixed operational squads.
- (64) 5.1.2 Border guard officers from interested MS which are airport specialists, could be sent to international airports of other MS. They would be integrated in the shifts and the whole system of the respective air border-crossing point, in accordance with national legislation. Provision could be made for possible exchange of high rank officers.
- (65) 5.2 Drawing on the experience of the Risk Immigration Operations (R.I.O) carried out at some of the most important international airports of the EU, a measure of the same nature could be implemented at the mean sea borders of the EU.
- (66) 5.3 The Council encourages Member States to offer to lead and/or participate in other projects.

6. Setting up of an immigration liaison officer network

a) In non MS

- (67) Building upon the experience of the Western Balkans ILO network, all the ILOs of the Member States located in the same foreign country should work effectively together. Networks in other regions should be rapidly established. This cooperation should take place within an implemented network. This network should provide information to all Member States. Requests coming from the MS could be forwarded to this network and answered by it. The network would be based on: regular meetings, if possible a common office, shared with all other ILOs specialised in other matters (organised crime, drugs etc.) which are frequently linked with immigration.

(68) The ILOs building this network could work both locally and at the headquarters.

b) Located at the MS headquarters

(69) The responsibilities of these ILOs in the MS do not necessarily have to change.

7. Network of centres for forged documents

(70) Consideration could be given to establishing and managing an automated secured intranet system, permitting the transmission of information on documents (including high definition image quality transmission in order to enable the facilities to conduct computerised verification checks on travel documents). This system should also provide all participating countries with identical and constantly updated data.

(71) Besides, protocols should be established for the transmission of information (e.g. alert documents, description of genuine documents,...).

(72) In the future, this network should operate on the basis of the FADO system.

8. Personnel exchanges between border checking points

(73) On the basis of risk analysis, the exchange of BCP officers between Member States and between Member States and candidate countries should be intensified.

9. Rational repatriation operations

(74) The existing structures in each Member State should be identified and the need for common repatriation operations should be assessed. This rational procedure would allow the compilation of the Member States' requirements for repatriations in order to organise common operations. Thus, standard security measures should be set up with regard to repatriation in airplanes, ships and other means of transportation.

- (75) This does not exclude the possibility for each Member State to charter transport on the basis of its own needs while associating any other interested Member State.
- (76) In addition, an agreement should be reached between the Member States on mutual support and assistance in enforcing repatriation and readmission measures during transit (airports, seaports, by car and train). Also, negotiations should be envisaged with a view to reaching agreements between the European Union and countries of origin and transit for assistance on transit as well as *hand-over procedures* at arrivals.
- (77) Annual meetings within the framework of the Council, at operational level, should be held on difficulties, on new experiences and on planning programmes for repatriation operations. Furthermore, common training for specialised repatriation units should be provided. All the above-mentioned points should make the organisation of common operations possible.

10. Coordinated criminal investigation related to cross-border crime and linked to illegal immigration

- (78) The Comprehensive Plan to combat illegal immigration identifies the need to strengthen the role and competences of EUROPOL, especially with regard to the detection and dismantling of criminal networks involved in illegal immigration. A procedure should be found to ensure that a permanent communication system between EUROPOL and the participating MS' authorities responsible for the management of the external borders can provide relevant information to Europol through their national units as in accordance with the provisions of the Europol Convention.
- (79) Such a system should have as its main goal to guarantee all assistance to EUROPOL in the prevention, investigation and analysis of the specific crimes, as well as sharing and processing all the information acquired by EUROPOL on the matter.

- (80) In this way a permanent network of contact points between the specialised units should be put in place allowing:
- the harmonisation of working methods with the setting up of structures able to deal with this type of transnational criminality
 - the exchange of information on routes and *modi operandi* of networks as well as on specialised documentary fraud requesting an analysis and risk assessment in order to increase the efficiency of police actions (In particular the information gathering should be based on the information received from the liaison officers operating in countries of origin and transit, as well as from Europol and the competent Council Working Parties)
 - the putting into effect of joint investigations teams with Europol's support, aiming at the dismantling of illegal immigration networks over their entire route, from the country of origin to the country of destination.

Measures to be taken in the medium term:

1. Quality management

- (81) This measure could be defined as a compilation of common standards useful for each Member State.
- (82) With these standards all the information (tables with statistics, trends, etc.) would be collected.
- (83) The analysis of these standards would make it possible to improve performance indicators necessary for quality management.

2. A permanent process of data and information exchange and processing

- (84) This mechanism is seen as a procedure or a code of conduct, which, depending on the nature of the information and of the risks identified, would aim to establish direct links and exchanges between the authorities concerned with security at external borders. This security procedure would be based on a plurality of instruments and technical exchange arrangements, some of which already exist while others would have to be created gradually.

- (85) The following tools could be involved:
- the SIS used to consult information on the occasion of checks at external borders.
 - the various electronic databanks being developed (e.g. network of visas issued and refused) to consult the information made available by other authorities;
 - the channels for exchange of information relating to prevention of drug trafficking;
 - an encrypted Intranet connecting national contact points to exchange information interactively or to consult on very precise measures to be taken within a very short time with regard to a person crossing the external border;
 - the traditional means of telecommunication (telephone or radio), passing through national contact points if necessary.
- (86) The integration of all information tools which exist or are being developed into wider multimedia communication procedures would guarantee a wholly interconnected system, enabling the immediate transmission of data between the authorities concerned, as well as with the pre-determined services of the participating countries posted at the external borders. Such integration should be carefully assessed in the light of the Community rules on data protection. Thus, any request for information and documents needed by a service would be transmitted in real time for the full treatment of an offence or threat observed at the external border. The exchange of information of a judicial nature should be in accordance with national and international legislation.
- (87) To be able to function correctly, the procedure should in the long term be formalised by a legal instrument specifying at Union level the obligations and the reciprocal rights both of the various border guard services responsible for checks and supervision of persons or goods crossing the external borders and of these border guard services and other administrative, police or judicial authorities within the territory which are involved in security in the common area of freedom of movement.

3. Group of experts for missions abroad

- (88) The creation of a virtual pool of specialists in different matters such as border control, false documents, surveillance matters etc. should be studied. They could be sent as EU special advisors to third countries. Every Member State should be encouraged to contribute experts to this pool. Protocols will have to be drafted on financial matters, recruitment, availability, etc.
- (89) It will also be necessary to take into account the experiences already acquired by the EU in training and advising the staff of the Consulates, the airline employees as well as the authorities in charge of border control in third countries. Among others, the experiences acquired in the framework of the Schengen acquis and those of EU joint teams in Bosnia-Herzegovina should be underlined.

4. Rapid response unit

- (90) At the request of a Member State and in order to react to specific problems and illegal immigration crises at the EU's external borders, other Member States can assign (on a voluntary basis) a number of officers to be deployed at any time and place. This can be done along the border crossing points or the green and blue borders of the requesting Member State. The task of the unit would be to provide advice and support for the competent national services on a complementary basis.

5. Units for border guard and customs cooperation at external borders

- (91) At significant land and sea external borders which are especially sensitive for more than one MS, border guard officers of the interested Member States could cooperate in common units.
- (92) As a first step, the officers of the MS should support the local border guard officers. Such staff should focus on traffic security, identification of persons wanted for arrest or extradition at the request of a competent judicial authority, etc.

- (93) As a second step, it would be studied whether the border guard officers of the guest Member State may have the competence to control persons, while never substituting the competent national services.
- (94) If possible or if requested, the border guard officers of the guest Member State could also give support in surveillance matters, especially conducting joint patrols.
- (95) At the units, contact points with the EU's neighbouring countries should also be set up.
- (96) Between these units, an integrated Intranet should be set up to interlink them EU-wide, with direct access to the SIS and any other future common databases that may be developed, available in real time to all officers of Member States working at any border.

B. Common integrated risk analysis

- (97) Common integrated risk analysis is also a vital component in the joint discussion of protection at external borders.

Two successive stages should be distinguished:

In the short term

- (98) Conferring on to the External borders practitioners common unit the structure and activities to evaluate the immediate operational needs. This structure would initially determine the indicators considered relevant for the analysis and development of the risks.

- (99) During the initial phase, the External borders practitioners common unit could be advised by Europol, CIREFI and others on the type of information that is worth collecting at the external borders. This analysis should also cover the use to be made of it in the interests of the internal security of the common area of freedom of movement. That could be done through:
- selecting the types of mission which would gain by being compared and conducted by border guard services and by services within the territory, and
 - determining categories of information.

In the medium term

- (100) Adoption of common indicators followed by the constant and continuous monitoring of their development to draw operational conclusions for action on the ground.
- (101) An integral risk analysis strategy must follow three main lines of protection of the external borders:
- Regarding third countries, actions should be ensured in two main fields: by the Consulates of the Member States and by the police liaison officers and attachés. The role of the liaison officers and police attachés in the Embassies of the various Member States could be increased and operate in the interest of all the Member States so that consular cooperation covers broader fields and contributes better to preventing the risk of terrorism.
 - Regarding border crossing points, risk analysis must focus on:
 - a. The optimisation of best practices for checks and surveillance: the *EU Schengen Catalogue* should facilitate risk analysis, in particular in relation to maritime borders.
 - b. Technological surveillance: risk analysis should anticipate the effects of technological progress on the work of the border guard, for example for the use of electronic databases, of digitised biometric data or of remote sensing techniques for external border surveillance.

- c. The practical questions of daily co-operation with neighbouring third countries at our external land borders: risk analysis could help to organise checks in such a way as to save time and infrastructures and promote cross-border co-operation.
 - d. The “security distortions” connected with the topography of the border and the regional environment.
 - e. Improvement and development of an intelligence function: risk analysis should here determine how to optimise the use of the external border as an “information gathering resource” for movements of persons, goods, objects and vehicles, including, where necessary, the risk of drug trafficking.
- Regarding the internal security of the common area of freedom of movement, data and information should be exchanged between *border guard* services and by services within the territory for the purposes of enforcement, prevention or investigation connected with a sufficiently precise and probable risk at the external borders.

C. Personnel and inter-operational equipment

Measures to be taken in the short term

(102) With the aim of gradually reducing quantitative and qualitative disparities that are likely to generate “security distortions” between the Member States at external borders, the next measures must be taken:

(103) 1. A common syllabus for the training of border guard.

The establishment of a common syllabus for the training of border guard and of their middle management as well as the regular organisation of advanced training courses are necessary. For that purpose, training programmes should be defined paying special attention to language-training; the acquisition of the main concepts as to the powers and status of border guard in the other Member States; the development of immersion training periods in a border guard service of another Member State; and training for the border guard to respect the rights of, and the protection of asylum seekers.

(104) 2. A common core curriculum.

The *External borders practitioners common unit* could be given the task of designing a *common core curriculum for training border guards*, based on the national training institute network and giving recommendations, standards and rules to the MS for efficient and coherent recruitment.

(105) 3. The common use of mobile surveillance equipment.

To this end, the convergence of national policies should also be sought as regards border guard equipment, fixed infrastructure, mobile equipment and telecommunication services.

In the medium term

(106) *The development of new technologies to facilitate checks at border crossing points and surveillance between crossing points should be envisaged.*

(107) Monitoring the coast by radar or satellite, which requires better policy coordination between the Member States, should ensure a more uniform level of security. The geographical situation of certain Member States warrants burden-sharing for the sound operation of fixed and mobile infrastructures for checks and surveillance from which all the Member States would benefit. The *Galileo* satellite system is an example of a European high-technology tool capable of bringing a new dimension to the common policy of checks and surveillance of the external borders.

(108) The convergence of national policies should also aim to achieve the greatest interoperability between the mobile equipment of the Member States. Particularly expensive equipment such as a satellite-based maritime border inspection network should be shared.

D. Common corpus of legislation

(109) Title IV of the EC Treaty, and in particular Articles 62 and 66, provide a rich legal potential for structuring the strategy, and creating and operating all the components of the common policy on integrated management of external borders.

Measures to be taken in the short term:

- (110) *1. Recast the Common Manual on Checks at the External Borders* to clarify the legal status of its provisions and make them a source of law alongside other legal instruments in place, such as those regulating the free movement of Union citizens or developing the Schengen acquis and Conventions under public international law which are relevant to border checks. A legislative initiative should be taken on this subject.
- (111) *2. Introduce into the Common Manual certain “best practices”* proceeding on the basis of the EU Schengen Catalogue of Best Practices and thus making them binding.
- (112) *3. Identify principles and adopt common measures on “local border traffic”*, particularly with a view to enlargement. An initiative should be taken aiming to better define the fundamental principles and procedures of such a system and, if necessary, to prepare for agreements between the Community and neighbouring third countries.

Measures to be taken in the medium-term:

- (113) *Produce a practical handbook usable by those tasked with the control and surveillance of the external borders, and available in electronic form.*
- (114) The objective is to give every member of the border guard services an easy-to-use handbook which can be consulted at all times. This handbook would not be a source of law but a systematic, coherent compilation of all the rules governing checks and surveillance under the relevant legal instruments. Thus, summarising and simplifying the Schengen rules would make it possible to take quicker decisions, define uniform methods at EU level and serve as a basis for a common training.

E. Burden-sharing between the Member States and the Union

In the short-term

- (115) The bases for a genuine sharing of the financial burden as regards the requirements in equipment and human resources for an integrated management of the external borders should be established at EU level, in full respect of the financial perspectives.
- (116) National budgets should remain the principal resources affected to these expenses. Nevertheless, Community budget support could be used to establish a mechanism for financial redistribution between Member States as well as to finance in the longer term the acquisition of common equipment, in particular for the purposes of supporting joint operations. The ARGO programme should in the short term be able to finance the most pressing requirements, for instance in common training.
- (117) An assessment of the different options concerning burden-sharing for Member States should be undertaken.

IV. EUROPEAN BORDER GUARD

- (118) An integrated management of the external borders of the MS of the EU is a dynamic process to be developed in stages.
- (119) The implementation of the measures described in this Plan will constitute significant progress towards such integrated management.
- (120) Based on the experiences of this gradual development, further institutional steps could be considered, if appropriate, following an in-depth legal study addressing the question of the legal basis and identifying the instruments which would be necessary. Such steps could include a possible decision on the setting up of a European Corps of Border Guards, composed of joint teams, which would have the function of supporting the national services of the Member States, but not replacing them.

MONITORING OF THE PLAN FOR THE MANAGEMENT OF THE EXTERNAL BORDERS OF THE EU
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<u>Measures to be undertaken</u>	<u>Work Done or in progress</u>	<u>Indicative timetable¹</u>
Setting up of an external borders practitioners common unit	First meeting of the persons responsible for border control services at the SCIFA meeting 11 April 2002	One year
The setting up of a network structure	The Feasibility Study for the setting up of an European Border Police	One year
Pilot projects	RIO I and RIO II	One year
Setting up of an immigration liaison officer network	Balkans initiative	One year

¹ To be reviewed by the external borders practitioners common unit on the basis of the information communicated by Member States involved in the implementation of the measures.

<u>Measures to be undertaken</u>	<u>Work Done or in progress</u>	<u>Indicative timetable¹</u>
Network of centres for forged documents	FADO initiative	One year
Personnel exchange between border checking points	Some initiatives at bilateral level have been taken	One year
Joint operations at external borders	High impact operation (HIO) under Belgian Presidency. RIO I and II under Spanish Presidency	One year
Rational repatriation operation	Bilateral initiatives	One year
Coordinated criminal investigation related to cross-border crime and linked to illegal immigration	Work on criminal investigation related to illegal immigration already done by EUROPOL	One year
National contact points for border management		One year
Quality management		Three years
A permanent process of data and information exchange and processing	Early Warning System	Three years

<u>Measures to be undertaken</u>	<u>Work Done or in progress</u>	<u>Indicative timetable¹</u>
Group of experts for mission abroad	Balkans initiative	Three years
Rapid response unit		As soon as possible and, in any case, within three years
Units for common border guard and customs cooperation		Five years
Common integrated risk analysis	RIO I and RIO II	One year/three years
A common syllabus for the training of border guard	First course for trainers in CEPOL in Brussels. Next course will take place in Madrid organised by CEPOL	One year
A common core curriculum		One year
The common use of mobile surveillance equipment		One year
The development of new technologies to facilitate checks at BCP and surveillance between BCP		Four years

<u>Measures to be undertaken</u>	<u>Work Done or in progress</u>	<u>Indicative timetable¹</u>
Recast the Common Manual on checks at the external borders	During 2002 some decisions about the revision of the Common Manual and its declassification have been adopted	One year
Introduce into the Common Manual certain "best practices"		One year
Produce a practical handbook usable by border guards and available in electronic form	Belgian initiative in the Working Party on Frontiers.	As soon as possible and, in any case, within two years
Identify principles and adopt common measures on "local border traffic"		One year
Assessment of options concerning burden-sharing between the Member States and the Union		One year

DEFINITIONS***Checks at external borders***

All operations carried out by official authorities in the Member States at border crossing points to ensure pursuant to *Article 6 of the Schengen Convention* that persons, their vehicle and the objects in their possession can be permitted to enter or leave the common area of freedom of movement.

Surveillance at external borders

All activities and operations carried out by official authorities in the Member States at external land, maritime and air borders to prevent, pursuant to *Article 6 of the Schengen Convention*, persons from circumventing the official border crossing points in order to evade checks and illegally enter the common area of freedom of movement.

Internal security in the common area of freedom of movement

Level of protection enjoyed in the area of freedom of movement by natural persons and bodies corporate, goods and properties of all kinds, capital, the provision of services and all lawful commercial transactions, as well as intellectual and artistic property rights, against attacks on their interests or threats to their integrity caused by:

- failure to comply with Community or national regulations;
- crime, terrorism, trafficking in human beings, crimes against children, arms trafficking, corruption and fraud, as understood in Article 29 of the Union Treaty, as well as traffic in narcotic drugs.

Security at external borders

Capacity of the external borders to constitute a barrage, or at least a reliable filter, for the Member States against potential threats to:

- the effectiveness of checks and surveillance;
- compliance with Community or national regulations;
- the level of internal security of the common area of freedom of movement;
- law and order or the national security of the Member States, except as regards the military defence of the external borders of the European Union against aggression where one or more third countries commits it openly or claims responsibility for it.

Border guard

Public official deployed either at a land, maritime or air border crossing point or along the land or maritime external border or in the immediate vicinity of the latter, who enjoys the prerogatives of public authority needed to exercise one or more of the following functions:

- carry out checks or surveillance at external borders;
- take at the external border the preventive or enforcement measures needed to secure compliance with Community regulations, the internal security of the common area of freedom of movement, law and order or national security;
- conduct investigations into facts observed in the course of checks or surveillance at external borders.

Management of external borders

The activities carried out by public authorities of the Member States to:

- carry out checks and surveillance at external borders provided for by Articles 5 and 6 of the *Schengen Convention*;
- gather, analyse and exchange any specific intelligence or general information enabling the border guard to analyse the risk that a person, object or asset constitutes for the internal security of the common area of freedom of movement, law and order or the national security of the Member States, and for general compliance with Community legislation;
- analyse the development of the threats likely to affect the security of the external borders and to set the priorities for action of by border guards accordingly;
- anticipate the needs as regards staff and equipment to ensure security at external borders.

DRAFT STATEMENT TO THE COUNCIL MINUTES

The **Council** stresses the need for immediate action to ensure a higher level of protection of the external borders of the Member States of the European Union.

Within the institutional framework of the European Union, concrete initiatives, as described in the plan for the management of the external borders of the Member States of the European Union, by a limited number of Member States, taking into account the specific needs identified, are welcomed, with due regard for the coordinating role of the external borders common unit. These initiatives will be open to participation of other Member States. They shall be in line with the general Community objective of ensuring that an equivalent level of control and surveillance is exercised everywhere at the external borders.
