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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL AND THE COMMITTEE OF THE REGIONS**

Examining the creation of a European Border Surveillance System (EUROSUR)

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Opinion

Title **Impact Assessment on: Creation of an European Border Surveillance System (EUROSUR)**

(draft version of 9 November 2007)

Lead DG **DG JLS**

1) Impact Assessment Board Opinion

(A) Context

Communication COM (2006) 733 of 30 November 2006 suggested the establishment of a European Surveillance System of Borders (EUROSUR) and a permanent Coastal Patrol Network for the southern maritime external border. The conclusions of the European Council of December 2006 mentioned the setting up of a Coastal Patrol network as a priority and referred to the competence of the FRONTEX. The Commission's initiative for the establishment of EUROSUR is made in the context of the common policy of integrated management of external borders and responds to the commitment of the Commission to support the Member States in the fight against illegal immigration as expressed in the 2008 Commission Legislative Work Programme.

(B) Positive aspects

The description of the political background, the legal framework and the size of the problem is based on detailed technical information. The conclusions of the main PEDSEA and BORTEC studies are well summarized and provide a good basis for making comparisons. The IA report examines the compliance with existing measures and refers to other relevant policy areas.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG.

General recommendation: The IA report should be more specific on the baseline scenario and roots of the existing problems. Moreover, it should explain more precisely the reason for extending the geographical scope of the border surveillance and explain the added value of the initiative in comparison to the existing and planned measures. The policy options should be defined as alternative courses of action. The sources and the structure of the financing of the initiative should be

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11. Office: BERL 6/29. Telephone: direct line (32-2) 2981898. Fax: (32-2) 2965960.

E-mail: impact-assessment-board@ec.europa.eu
Website: http://www.cc.cec/iabi/index_en.cfm

clearly set out.

(1) The extension of the geographical scope of the initiative to the Eastern land border should be better justified. The IA report should clearly explain the reasons - and especially the displacement effects - for extending the scope of the initiative from the southern maritime border to the Black Sea maritime border and the Eastern land border. Accordingly the report should clearly describe the insufficiency of the existing measures to address these issues.

(2) The limitations of the current border surveillance should be demonstrated in a broader policy analysis. The IA report touches on the issues of data protection, human rights, the threat of terrorism and cross-border organised crime, but it should be more explicit on the effectiveness of the protection of human rights and anti-terrorist measures under the current border surveillance. More generally, the efficiencies and the deficiencies of the existing measures should be examined more thoroughly to justify the necessity of the proposed action.

(3) The specific objectives and the various options should be better explained. The IA report should be clearer on how the specific objectives are linked to the problems and how the options contribute to achieving these objectives (using the status quo scenario as baseline). The presentation of the options should be improved so that it becomes clear whether they are interdependent or could be carried out separately; in the former case the synergies and trade-offs between the options need to be explicitly appraised. In this way the chain of reasoning leading from the problems and the main and specific objectives to the formulation of policy alternatives and their subsequent appraisal and comparison can be clearly established, such that the logic of the intervention is more clearly explained.

(4) The IA report should be more conclusive on potential financing sources for the proposed initiative. The IA report explicitly mentions the involvement of the FRONTEX agency, the use of the resources of the External Border Fund and the co-financing between the EU and the Member States. The IA report should describe in a clear and systematic manner the sources of financing (incl. the relevant budgetary headings) so that the structure of the financing and the financial responsibilities of the EU and the Member States are clearly set out. The IA report should further address the risk of possible lack of financing and how this might be addressed, and whether financing of emergency interventions is an issue in the context of EUROSUR.

(D) Procedure and presentation

The IA report should more closely respect the maximum length of 30 pages (excl. annexes) as recommended by the IA guidelines.

2) IAB scrutiny process

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