

Preparatory study to inform an Impact Assessment in relation to the creation of an automated entry/exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers ('Registered Traveller Programme')

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CONTENTS

EXECUTIVE SUMMARY	4
1 INTRODUCTION	12
1.1 Background to the proposals	12
1.2 Method of approach	13
1.3 Report structure	14
1.4 Glossary	15
2 PROBLEM ASSESSMENT	18
2.1 Introduction	18
2.2 Illegal migration	18
2.3 The scale and 'costs' of bona fide cross EU border movements.....	19
2.4 Terrorism, serious crime and cross border movements	21
2.5 The challenges of economic migration	23
3 POLICY OBJECTIVES AND OTHER ASSESSMENT CRITERIA	25
3.1 Introduction	25
3.2 Policy objectives.....	25
3.3 Other relevant criteria.....	26
4 THE POLICY OPTIONS	28
4.1 Introduction	28
4.2 Policy option 1 Status Quo.....	30
4.3 Policy option 2 Entry/exit system	34
4.4 Policy option 3 Measures to facilitate cross-border flows (Registered Traveller Programme and Automated Border Control)	36
4.5 Policy option 4 Obligation on TCN to confirm their return to country of origin or Bond/tax scheme for TCN migrants	38
5 COMPARATIVE ASSESSMENT OF POLICY OPTIONS	40
5.1 Introduction	40
5.2 Policy option 1 The Status Quo	40
5.3 Policy Option 2 Entry/exit system	42
5.4 Policy option 3 Measures to facilitate cross-border flows (Registered Traveller Programme and Automated Border Control)	50
5.5 Policy option 4 Obligation on TCN to confirm their return to country of origin or Bond/tax scheme for TCN migrants	59
5.6 Comparative assessment	66
5.7 The preferred option.....	66
6 ELABORATION OF THE PREFERRED OPTION	71
6.1 Introduction	71
6.2 European value added, proportionality and subsidiarity	71
6.3 Costs and resources required.....	73

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

6.4	Legislative implications	76
6.5	Measures to ensure effectiveness	76
6.6	Measures to ensure data protection and protection of rights of travellers.....	77
6.7	Phasing	79
6.8	Key risks, assumptions and aspects of feasibility.....	79
7	MONITORING AND EVALUATION	81

EXECUTIVE SUMMARY

This is the Final Report of the preparatory study to inform the Impact Assessment in relation to proposals for an automated entry/ exit system at the external border of the EU and the introduction of a border crossing facilitation scheme for bona fide travellers (“Registered Traveller Programme”). The purposes of the assignment were to:

- Identify the scale and nature of the problems being addressed by the proposals
- Identify lessons from existing relevant systems;
- Identify the policy objectives;
- Present and assess the policy options based on the proposals and alternative means of addressing the underlying problems.
- Identify and elaborate the preferred option(s);

Problems addressed

The proposals aim to address the following problems in order of priority:

- Illegal migration;
- The cost of crossing EU external borders for ‘bona fide’ travellers
- Terrorism, and serious crime
- The challenges of economic migration

These problems are strongly interrelated, as a better management of migration flows would lead to a better way to detect and apprehend illegal migrants, and would deter would-be illegal migrants and people presenting a risk to internal security. This assignment, concerns approaches to managing migration from the perspective of external border security and management.

Illegal migration: It is estimated that there were between 3 and 8 million illegal migrants within the EU25 in 2006. Most (an estimated 80%) were within the Schengen area¹. It is likely that over half of illegal migrants entered the EU legally but become illegal or irregular due to overstaying their right to stay.

Data collected at national level indicate that more than 75% of illegal migrants that were apprehended on the territory of Member States in 2006 were from third countries where visas to visit the EU are required. It is therefore likely that most overstayers originate from these third countries. Only a small proportion of illegal migrants are apprehended and returned to their country of origin.

¹ See Annex 5.2. The estimated number of illegal immigrants living in the UK, which is not in Schengen is between 430,000 and 1 million.

The costs of crossing EU external borders: There are in the order of 300 million EU27 external border crossings per annum (i.e. approximately 150 movements into the EU and 150 million movements out) made at designated border crossing points. It is estimated that 160 million of these border crossings are made by EU citizens, 80 million by Third Country National Visa Holders, and 60 million by Third Country Nationals not requiring visas.

Relative to the scale of cross border movements related to illegal migration, the total flows are very large. The flows have been growing and are likely to increase.

Delays and associated costs are incurred at border crossings where there are imbalances in the number of border control staff compared with the flows of travellers, leading to the formation of queues. Given the very large numbers of border crossings small changes in the time taken to make border crossings are potentially very significant.

Terrorism serious crime and cross border movements: Terrorism and organised crime are major problems with strong international dimensions. Organised crime is growing and, though difficult to predict, terrorism is likely to remain a major problem. The problems are extremely expensive to combat and generate huge human and social costs. There are serious crimes closely related to cross border movements of people: travel document and identity fraud, people smuggling and human trafficking. Border controls play a role in combating terrorism and serious crime. The controls involve identity checks and travel documents are compared with various databases of known persons.

The challenges of economic migration: Economic migration is important to the development and competitiveness of the EU. It was estimated that in 2003 there were in the order of 16 million Third Country Nationals residents in the EU. In the same year 600,000 new permits to stay were estimated to be issued. Legal economic migration to the EU involves: those with skills where there is demand exceeding supply; seasonal workers, largely working in the agriculture and tourist sector; students and trainees whose fees and expenditure contribute to the economy of the EU; and, those with family ties to EU citizens and Third Country Nationals working in the EU. Some economic migration is permanent and some temporary. In addition to the direct economic contribution, economic migration to the EU generates and strengthens international links. At the same time there are challenges of integration arising from economic migration.

Policy objectives

The general objectives are, in the order of priority endorsed by the Steering Group:

1. To reduce illegal migration;
2. To facilitate the crossing of EU external borders for *bona fide* travellers, ensuring overall coherence of EU border policy;
3. To contribute to the fight against terrorism and serious crime;
4. To improve the effective management of economic migration (for example, seasonal workers)

The specific objectives relating to each general objective are:

General objective 1

1. To identify those Third Country Nationals that overstay their right to be in the EU
2. To generate information that would help to apprehend irregular and illegal migrants including overstayers and to deter illegal immigration;

General objective 2

3. To reduce the time taken and other 'costs' crossing EU external borders by (frequent) *bona fide* travellers;
4. To enable border control resources to better focus on checking riskier groups of travellers and tackle illicit movements of people;

General objective 3

5. To generate information that would prevent terrorism and serious criminal activity;
6. To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects;

General objective 4

7. To increase the confidence of authorities to grant permissions to Third Country Nationals to enter and work in the EU to meet labour market demands
8. To decrease the likelihood that those Third Country Nationals granted permission to work in the EU would overstay.

Policy options

The following policy options were assessed.

- *Policy Option 1 The status quo:* This option reflects the large number of important developments that are underway and the substantial improvements in infrastructure for the management of cross border flows that are anticipated to occur. However, these improvements are not yet in place.
- *Policy Option 2 The entry/exit system:* The system would involve the systematic recording of the time of entry and exit of passengers crossing the EU external borders and the provision of alerts to authorities when Third Country Nationals had overstayed their right to stay in the EU. There would be significant differences in the implications for applying an entry/exit system to Third Country Nationals Visa Holders and other Third Country Nationals not requiring visas to enter the EU. In particular the latter would need to be 'enrolled' by providing their biometric data. Hence two sub options have been defined, one relating to Third Country National Visa Holders and one to other Third Country Nationals wishing to visit the EU.

- *Policy Option 3: Measures for facilitate cross-border flows (Registered Traveller Programmes and Automated Border Control).* Such a policy option could take several forms, and be applied to different categories of traveller and apply different eligibility criteria. Three sub policy options have been chosen so that the Impact Assessment process can assess the implications of the main difference that could apply. The sub policy option of a Registered Traveller Programme for Third Country Nationals (3a) would be, in part, a response to the additional constraints and implications for cross border travel that an entry/exit system could impose. The assessment of the two sub policy options relating to EU citizens illustrates the differences in approach between establishing a single EU wide system (3b) and minimum standards for the development of a number of systems tailored to the needs of particular border crossings and groups of EU travellers (i.e. both Registered Traveller Schemes and Automated Border Control)(3c).
- *Policy Option 4 Obligation to confirm return to country of origin or bond system for migrants:* Neither of the two sub-policy options were mentioned in the Terms of Reference for the study, nor have they been mentioned in relevant policy documents. The first sub option (4a) has been included because it would provide information to relevant authorities similar to that which would be generated by an entry exit system. The second sub option (4b), proposing a system of bonds, would also provide similar information to an entry/exit system and also an incentive that could discourage overstaying by those Third Country Nationals who legally enter the EU.

A number of policy options and sub policy options were considered but not assessed. A separate policy option involving the pooling of data on 'potentially dangerous persons' was considered but eliminated because of overriding legal constraints and its relevance to only one of the four main policy objectives.

The possibility of extending the entry/exit system to EU nationals was also considered because of the possible benefits with respect to identifying histories of cross movements of 'potentially dangerous persons' from within the EU. However, the need for a legal basis and implications for data protection were considered as likely to considerably outweigh the potential benefits.

In addition, several technical options for the entry/exit system for Third Country Nationals were considered. The possibility of an entry/exit system not using biometrics was considered but eliminated because the reliability of identity verification would be low as it would be difficult to detect forged and faked documents and the system would be slow compared with one using biometrics where border guards would not need to undertake paperwork. The assessment has focussed on a system that makes use of the developments that are taking place in the status quo and in particular the Visa Information System. Developing entirely separate systems would be costly and disproportionate and would not utilise synergies.

As for the Registered Traveller Programme other sub options were considered including:

The use of alternative biometrics particularly iris recognition in the harmonised Registered Traveller Programme for EU citizens (sub option 4b) but this was considered likely to be very expensive, requiring investment over and above biometric recognition

equipment that would rely on e passports, and involving longer enrolment times, though greater accuracy could potentially be achieved.

Treating the visa as permission to enter and thus speeding the entry of Third Country National Visa Holders which, were an entry/exit system to be in place, could be an alternative to sub option 3a a Registered Traveller Programme for Third Country Nationals, because the time taken for Third Country Nationals to cross borders would decrease. Such an option would however, have implications for visa policy that are arguably outside the scope of this study.

The comparative assessment of policy options

As indicated in the Summary Table policy options 2a and 2b and 4b are likely to be similarly effective in *reducing illegal migration*. Their impacts would be additional to those of the status quo which is itself expected to reduce illegal migration to some extent. However, it would be unrealistic to expect that the policy options would eliminate illegal migration. The push and pull factors that lead to illegal migration will remain strong and some amongst those who enter the EU legally will opt to overstay irrespective of whether ‘sanctions’ may result.

Policy options 2a and 2b and 4b are more likely to be effective in identifying overstayers and to lead to their apprehension than policy option 4a. Policy option 4b is likely to be effective in this respect because entry into the EU will have involved a significant financial transaction and, if necessary, this process could help in the identification of overstayers.

Only policy options 3a and 3b contribute markedly to facilitating the cross border crossing of bona fide travellers. However, both policy options 2a and 3c contribute to some extent.

None of the policy options contribute markedly to reducing terrorism or serious crime but policy options 2b and 4b have the greatest potential in this respect

Summary Table – The comparative assessment of Policy Options

<i>Objective to be achieved/ problem addressed</i>	Policy Option 1	Policy Option 2a	Policy Option 2b	Policy Option 3a	Policy Option 3b	Policy Option 3c	Policy Option 4a	Policy Option 4b	Preferred PO 2a,2b,3a,3c
Policy objective: To deter illegal immigration	√	√√	√√	½	½	½	√	√√	√√√
Policy objective: To generate information that would help <i>identify</i> and <i>apprehend</i> irregular and illegal migrants including overstayers	√	√√√ √	√√√ √	0	0	0	√	√√√ √√	√√√ √
Policy objective: To facilitate bona fide crossings of EU external borders	–	√	–	√√	√√	√	0	0	√√√

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

Policy objective: To generate information that would prevent terrorism and criminal activity	√	0	√	–	–	½	0	√	√
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects.	√	√	√	0	0	0	0	√	√
Policy objective: To improve the effective management of economic migration	√	√√	√	0	0	0	√√	√√√	√√
Relative costs	NA	Low	Medium	Low	Medium	Low	Medium	Medium	Medium
Preferred option		√	√	√		√			

Note: the impacts of the policy options 2-4 are in addition to those that would accrue through the status quo.

Legend:

- negative contribution

√ some contribution

0 no contribution

√√ significant contribution

½ very small contribution

√√√ very significant contribution

Policy option 4b has the greatest potential to contribute to the management of economic migration. Policy options 2a and 4a would also contribute significantly in this respect.

The preferred policy option

There is clear merit in pursuing policy option 2a the entry/exit system for Third Country National Visa Holders particularly with respect to reducing illegal migration. The costs are low and the policy benefits significant. There are no major risks associated with the policy option except those that concern the successful implementation of the status quo. Policy option 2a should thus be part of the preferred option.

The balance of costs and benefits of policy option 2b, the entry/exit system for Third Country Nationals not requiring visas is less clear cut. There would be significant costs associated with the enrolment of these Third Country Nationals but there would be benefits in reductions in illegal migration resulting from overstayers. However, given the importance of reducing illegal migration and the improved information on patterns of overstaying that the sub policy option would provide, and because, should there be changes in visa policy that mean some the citizens of some countries would no longer require visas, there would be resource savings to the EU, it is proposed that policy option 2b should also be part of the preferred policy option.

Third Country Nationals that enjoy free movement (such as family members of EU citizens) and TCN that are local border residents in neighbouring countries, as well as other categories of TCN exempted from passport stamping would not be subjected to the entry/exit requirement.

None of the arguments for the sub options within policy option 3 are extremely strong. This is because the benefits to travellers of being on Registered Traveller Programmes derive in large part from the relative 'costs' of being 'normal' travellers and it would be preferable if such costs were themselves low. However, on balance sub policy option 3a which would provide a Registered Traveller Programme for Third Country Nationals would offer some compensation to Third Country Nationals frequent travellers for the increased 'burdens' arising from the status quo and policy option 2b. Thus this sub policy option should be part of the preferred option. On the other hand the benefits of the introduction of sub policy option 3b, a harmonised Registered Traveller Programme for EU citizens would be unlikely to offset the costs and could be seen as discriminatory. At the same time sub policy option 3c that would provide for minimum standards for the development of Registered Traveller schemes and Automated Border Controls for EU citizens tailored to the needs of particular border crossings, would be of merit and of low cost. Thus it is proposed to include policy option 3c in the preferred option.

Policy option 4a does not offer benefits additional to those that would accrue from policy option 2a and it would impose considerably greater costs on travellers and visa consulates (although it would not require the successful implementation of the status quo). For this reason it is not included in the preferred option.

The policy option that 'scores' best in the comparative assessment is policy option 4b a system of bonds applying to Third Country Nationals requiring visas. Policy option 4b would provide data on overstayers. There is no reason why these data should be less good than those generated in policy option 2a. Furthermore, the incentive of the bond being returned could mean that fewer Third Country Nationals Visa Holders overstay than in policy option 2a.

The policy option 4b would be most effective were it part of a wider policy for the management of economic migration and international development. This would require that bonds were set at different levels for different types of visitors and migrants. The policy option would perhaps be most useful under a scenario where migration policy was designed to accommodate large numbers of temporary workers from third countries requiring visas in response to high labour demand within the EU and as a deliberate policy of international development. Such benefits and policy scenarios arguably go beyond the scope of this Impact Assessment study. Also the sub policy option has several drawbacks and could be perceived as discriminatory and regressive. Furthermore, in current circumstances in order to ensure that the bonds are only returned to those that have left and to the provider of the bond, Third Country National Visa Holders would need to verify their return to their country of origin by revisiting the visa consulate and (when the status quo is in place) providing biometric details to verify their identity. This would impose significant costs on the visa holder. However, should policy option 2a be implemented verification could be provided by the exit record. Thus, policy option 4b is likely to work best as a complement to policy option 2a. In these circumstances sub policy option 4b is not put forward as part of the preferred option but is something that might be further considered should the preferred policy option be successfully implemented.

The preferred option is thus a combination of an entry/exit system for all Third Country Nationals (sub policy option 2a and 2b) and a Registered Traveller Programme open to Third Country Nationals (sub policy option 3a) and minimum standards for the development of 'local' Registered Traveller schemes and Automated Border Control for EU nationals (sub policy option 3c). The preferred option generates reasonable benefits and contributes to the achievement of the main objectives. The potential of the preferred option with respect to reducing terrorism and serious crime is however minor. The preferred option includes two complementary measures as the Registered Traveller Programme can be seen as compensatory to Third Country Nationals that are subject to more stringent migration and border controls and the potential costs of waiting at borders through the entry/exit system. The preferred option does not have major disadvantages. The costs (with the possible exception of policy option 2b) would be marginal increases to those of the status quo. The benefits of policy option 2b) would be greatly enhanced and the costs offset if the enrolment of Third Country Nationals at borders became a viable alternative to granting visas and visa policy changed as a result.

However, the preferred option is very highly dependent upon the success of the implementation of the status quo. Failure of the Visa Information System of identity checks at EU external borders, and to operate efficiently and at all border points, including land borders would render the preferred option of limited benefit.

The preferred option would require several safeguards:

- If there were errors on the identity checks of passengers, facilities would need to be available for 'manual checks' and for amending the data on entry and exit at all border points. Otherwise Third Country Nationals could be penalised unfairly because of system error.
- Facilities should be widely available to update information in the entry/exit system to reflect changes, such as circumstances that might lead to overstays (for example, plane cancellations, sickness etc.).
- Some form of 'right to appeal' against sanctions imposed due to apparent 'overstaying' would need to be introduced.
- To be effective data would have to be retained on the histories of cross border movements of Third Country Nationals. This raises data protection issues that will need to be safeguarded.

1 INTRODUCTION

This is the Final Report of the preparatory study to inform the Impact Assessment in relation to the creation of an automated entry/ exit system at the external border of the European Union (EU) and the introduction of a border crossing facilitation scheme for bona fide travellers (“Registered Traveller Programme”). The work has been undertaken by GHK on behalf of DG Justice, Freedom and Security (DG JLS) during the period March 2007 to October 2007. The statements and conclusions expressed in this study are those of GHK and should not necessarily be regarded as stating an official position or reflecting the views of the European Commission.

The purposes of the assignment were to:

- Identify the scale and nature of the problems being addressed by the proposals;
- Identify lessons from existing relevant systems;
- Identify the policy objectives;
- Present and assess the policy options based on the proposals and alternative means of addressing the underlying problems;
- Identify and elaborate the preferred option(s).

1.1 Background to the proposals

The creation of an automated entry/exit system has been discussed as a possible policy option in several EU documents:

- The Commission Communication to the Council and European Parliament on improved effectiveness, enhanced interoperability and synergies among European databases in the area of Justice and Home Affairs² stated that the main purposes of entry exit systems are to ensure that people are examined when arriving and departing and to collect information on their immigration and residence status.
- The Communication on Policy Priorities in the fight against illegal immigration of third-country nationals³ pointed out the Community rules do not provide for automated registration of TCN on entry/exit from the EU territory. The creation of an automated entry/exit system would therefore facilitate the management of illegal migration as checks on the immigration and residence status of TCN entering and exiting EU territory would be undertaken.
- The Policy Plan on Legal Migration⁴ considered an automated entry/exit system as a component of a possible future EU scheme for the admission of seasonal

² COM (2005) 597 final of 24 November 2005

³ COM (2006) 402 final of 19 July 2006

⁴ COM (2005) 669 final of 21 December 2005

workers. It indicated that such a system would help Member States to verify overstayers and thus improve the management of economic migration.

- In the context of the EU Action Plan on Combating Terrorism⁵ an automated entry exit system was included amongst the border control measures that could be taken to prevent terrorism.

The question of setting up a (biometric) automated entry/exit system at the external borders of the EU was addressed in the framework for the Impact Assessment for the setting up of a Visa Information System (VIS). In that context, the view was taken that the entry/exit system would have been too costly and disproportionate⁶. However, it is likely that the technical feasibility of an entry exit system has in the meantime improved and it is therefore timely to reassess the option more thoroughly.

The essential rationale of the introduction of an automated entry/exit system is that it would enable the maintenance of a record of third country nationals (TCN) entering and exiting the EU. However, the introduction of such a system might increase the time necessary for TCN to go through EU external border controls. Furthermore, EU citizens may themselves face delays at EU border crossing whilst their travel documents are manually checked. There is, therefore, a basis for reducing the impact of new border control measures by introducing a cross border facilitation scheme that would apply to 'registered travellers' that do not pose any 'threats' and can therefore be subjected to faster border control procedures. The implementation of such a 'Registered Traveller Programme' would be voluntary and could have the extra benefits of enabling border guards to focus their resources on 'risky' categories of persons.

At European level the setting up of a Register Traveller Programme has been raised in the framework of the relations with the United States:

- the Commission Communication A Stronger EU-US Partnership and a more open market for the 21st century⁷ suggested examining the possibility of a travel initiative for a special status of 'trusted persons' to facilitate the movement of international travellers and ensure compliance with security procedures at the same time.
- Furthermore, several Member States have developed pilot programmes at various airports throughout the EU (for example, in the UK at Heathrow, Gatwick, and Birmingham; in the Netherlands at Schiphol Airport; in France at Charles De Gaulle Airport; in Germany at Frankfurt airport). This seems to be a growing trend. Yet, it might not be desirable to have different national Registered Traveller schemes that are not interoperable across EU Member States and thus a common standard might be developed.

1.2 Method of approach

The method of approach involved the following main tasks:

⁵ Council Document 5771/06 of 27.1.2006

⁶ SEC (2004) 1628 of 28 December 2004

⁷ COM (2005) 196 final 18.5.2005

Task 1: Review of the problems in the current situation. Literature, statistics and other information was collected on main problems that the proposals might address relating to: illegal migration and in particular the numbers of TCN that enter the EU and overstay; the numbers of bona fide travellers crossing EU external borders and the problems they encounter; the extent to which existing border controls are relevant to the detection and apprehension of criminals and terrorists; and, the challenges of economic migration and the flows of economic migrants of different types.

Task 2 Research to identify key lessons and aspects of feasibility. This task included: a review of relevant EU legislation, visa policy, Schengen border control, Schengen Acquis and procedures, and data protection and hence the constraints that could affect the proposals; the structure and functioning of existing and planned EU databases (SIS, SISII, VIS and EURODAC); reviews of entry/exit systems (US VISIT, Finland, Estonia); reviews of existing Registered Traveller Programmes and schemes for 'trusted' registered travellers who have been 'checked' (*Iris UK*, *Privium*, Schiphol, the Netherlands, *Pegase*, Charles de Gaulle, France, *Nexus*, Canada and US, *ABTC business card* for Asian Pacific Region countries, *ABG Frankfurt*, Germany); reviews of automated border systems, involving identification checks through the use of biometrics (*Smartgate* Australia, *e channels* Hong Kong/Mainland China, *Autogate* System in Malaysia, *Rapid* in Portugal); reviews of the strategic approaches to border controls (UK e.borders); reviews of schemes used in the management of economic migration (the experience of the bond system in Israel, Highly Skilled Migrants Programme in the UK, quota system and bilateral agreements with Third Countries in Italy and Spain). The Task was informed by desk research and consultations with those involved in the implementation of existing and planned schemes relevant to the proposals.

Task 3 Definition of policy objectives. This Task was informed by a review of Commission and Council documents and through discussion with Steering Group. The policy objectives provided the basis for the main assessment criteria applied to the policy options.

Task 4 Elaboration of the policy options and their intervention logics. This Task was informed by the review of relevant initiatives and discussions with the Steering Group. In practice the policy options were developed iteratively.

Task 5 Detailed Assessment of policy options. Each policy option was assessed against criteria derived from the policy objectives and the normal considerations of Impact Assessment. The assessment took into account the links to the underlying problems and the key lessons and aspects of feasibility derived from Task 2.

Task 6 Elaboration of the preferred option and assessment of considerations of EU added value, subsidiarity and proportionality. In addition to considerations of EU added value, subsidiarity and proportionality, this task considered, costs, the legal basis, the circumstances that would increase effectiveness of the components of the preferred option, issues of data protection and risks.

Task 7 Elaboration of monitoring and evaluation criteria.

1.3 Report structure

In line with the Commission Impact Assessment Guidelines, this report presents and considers:

Section 2 Problem assessment

Section 3 Policy objectives and other assessment criteria

Section 4 The policy options

Section 5 Comparative assessment of policy options

Section 6 Elaboration of preferred option

Section 7 Monitoring and evaluation

Supporting material is provided in annexes:

Annex 1 Case studies and key lessons: entry/exit systems, automated border control, integrated border management

Annex 2 Case studies and key lessons: Registered Traveller Programmes

Annex 3 Case studies and key lessons: the management of economic migration

Annex 4 Existing databases at EU level

Annex 5 Statistical Information: number and estimates of illegal and legal migration; numbers of Schengen visas; official border points, cross-border movements.

Annex 6 Key references

Annex 7 Consultations undertaken

Annex 8 Questionnaires

1.4 Glossary

The following terms have been used in this report.

<p>Automated Border Control (identity verification)</p>	<p>A system that enables the automated verification of travellers' identity without the intervention of border guards.</p> <p>A document-reader electronically reads the biometrics included in the travel documents or stored in a system or database and compares them against the biometrics of the passengers.</p> <p>In the options relating to ABC in this Impact Assessment it is assumed that EU citizens would not be checked against 'watch' lists, unless on a random basis. However, such a technical possibility exists</p>
<p>Border Checks</p>	<p>All operations carried out by official authorities in the Member States at border crossing points to ensure, according to the Border Code,, that persons, their vehicle and the objects in their possession can be permitted to enter or leave the territory of the Member States</p> <p>According to the Border Code, external border controls must be carried out:</p> <ul style="list-style-type: none"> ▪ Upon entry into and exit from the territory of the Member States ▪ On all persons, regardless of nationality.

	<p>Minimum checks must be carried out to:</p> <ul style="list-style-type: none"> ▪ Established the identity of the person on the basis of their travel documents ▪ Detect and prevent threats to national security <p>Third country nationals are subject to thorough checks. Their entry is subject to:</p> <ul style="list-style-type: none"> ▪ Possession of a document valid for the crossing of borders, ▪ Possession of a visa if one is required, ▪ The presentation, if necessary, of guarantees regarding the reasons for stay and its conditions and the return to the country of origin, ▪ The absence of a threat to law and order. This condition gives Member States the exclusive right to determine whether to admit a third-country national.
Biometrics	<p>Biometrics are “unique, measurable characteristics or traits of a human being for automatically recognising or verifying identity.” (OECD, 2004)</p> <p>The primary purposes of biometrics are to allow for:</p> <ul style="list-style-type: none"> ▪ Verification (also called authentication) or “confirming identity” (ICAO, 2003a): a one-to-one match is intended to establish the validity of a claimed identity by comparing a verification template to an enrolment template. ▪ Identification (also called recognition) or “determining possible identity” (ICAO, 2003a): a one-to-many matches is intended to check the biometric characteristics of a person against an existing enrollee dataset (e.g. check against a watch list, prevention of multiple enrolments)
e-passport	A standardised European passport including facial and fingerprint biometric information
Entry/exit system	<p>The purpose of an entry/exit systems is:</p> <ul style="list-style-type: none"> ▪ to register the entry and exit of individuals in a database or system, ▪ to generate automated alerts when the legal entitlement of an individual to stay in the territory has expired and there is not a record in the system that he/she has left the country.
ECHR	European Court of Human Rights
Frequent Travellers	For the purpose of this study Frequent Travellers are people entering or exiting EU at least 12 times per year (i.e. on average once a month).
Overstayers	Persons that have entered the territory legally (i.e. with a valid travel documents and visa) but have remained in the territory beyond the time they were entitled to stay.
Registered Traveller Schemes	Registered passengers schemes (sometimes also referred to as systems or programmes) Involve to enrolment and registration of voluntary users. Enrolment involves providing information including biometrics and checks against ‘watch’ lists to make sure that they are not considered to be a threat

	<p>to public policy, internal security, public health or the international relations of any of the Member States.</p> <p>At airports with Registered Traveller Schemes, individuals go through a biometric verification that allows automated check-in or out while other regular passengers must queue for traditional checking by border guards. These systems use various biometric technologies (OECD 2004).</p>
Registered Traveller Programme	This term is used in this report to refer to a harmonised programme that would apply at the Schengen or EU levels applying the principles and methods of the Registered Traveller schemes.
Schengen Area	<p>It includes the current members of the EU, except United Kingdom and Ireland, plus Norway, Iceland and Switzerland.</p> <p>The EU Member States that joined the Union on 1 May 2004 and on the 1st January 2007 and Switzerland are in the process of fully implementing the Schengen Acquis.</p>
TCN	Third Country Nationals
TCNVH	Third Country Nationals Visa Holders.
TCN not requiring Visa	Annex 5.4 Table 3 indicates the list of states whose nationals are exempted from Schengen Visa requirements

2 PROBLEM ASSESSMENT

2.1 Introduction

This Section provides an assessment of the extent of the scale and nature of current problems and provides an elaboration of the identified challenges.

The proposals aim to address the following problems in order of priority:

- To reduce illegal migration;
- To facilitate the crossing of EU external borders for bona fide travellers;
- To contribute to the fight against terrorism and serious crime;
- To improve the effective management of economic migration such as seasonal workers.

These problems are strongly interrelated, as a better management of migration flows would lead to a better way to detect and apprehend illegal migrants, and would deter would-be illegal migrants and people presenting a risk to internal security. This assignment, concerns approaches to managing migration from the perspective of external border security and management.

2.2 Illegal migration

The problem: It is estimated that there were between 3 and 8 million illegal migrants within the EU25 in 2006⁸. Most (an estimated 80%) were within the Schengen area. It is likely that over half of illegal migrants entered the EU legally but become illegal or irregular due to overstaying their right to stay⁹.

In 2006 in the order of 500,000 illegal migrants were apprehended in the EU27 (i.e. around 16% of the lower estimate of actual illegal migrants) and it is estimated that around 40% of these were removed¹⁰. In 2006 the EURODAC database stored 25,162 fingerprints of people who had crossed borders irregularly¹¹.

Data collected at national level indicate that more than 75% of illegal migrants that were apprehended on the territory of Member States in 2006 were from third countries where visas to visit the EU are required¹².

⁸ This estimate is consistent with that of the United Nation's Trend and the estimates of EU25 Member States given in Annex 5. However, there are other, estimates: 2-3 million (Global Migration Perspective 2005) and 4.5 million (IOM 2000).. See Annex 5.2. table 1.

⁹ There are varied estimates in different national studies undertaken in the Netherlands ('large majority'), Italy (75% in 2004) and UK (31% in 2002).

¹⁰ The information cited in this report on apprehensions and removals has been provided in confidence by Eurostat CIREFI Unit. See Annex 5.1. table3

¹¹ See Annex 4

¹² See Cirefi data in Annex 5.1. table 4.

It is therefore likely that most overstayers originate from these third countries.

The factors that lead to illegal migration, in particular marked differentials between wages and socio economic conditions in the EU and countries of origin and the possibilities for illicit employment and eventual regularisation in the EU persist, and the problem is likely to continue.

Illegal migration threatens social cohesion in the EU (illegal migrants cannot integrate). The costs of identifying, apprehending and returning illegal migrants are high. The phenomenon is linked to organised crime. Illegal migrants are themselves subject to exploitation. Whilst the EU economy in certain sectors and regions in particular and some economic actors in the EU benefit from workers that might be residing in the EU illegally, such benefits are offset by the market distortions and unfair competition they generate¹³.

Migration may also generate economic benefits to third countries through remittances from migrants that find work in the EU. Some such benefits may be derived from illegal third country workers in the EU. However, illegal migrants incur high costs and risks to travel to Europe, including the consequences of criminalisation. The countries of origin may also lose human resources and skills.

Illegal migration is thus a widespread and continuing problem and current measures to detect and reduce its incidence are only partially effective.

The main proposals being considered in this study could contribute to the reduction in illegal migration. The entry/exit system might provide timely and reliable information on the identity and incidence of those entering the EU legally and overstaying their right to stay. This should facilitate the apprehension and removals of illegal migrants. The Registered Traveller Programme might allow border control resources to focus more on the detection of illegal border crossings.

Considerable efforts are underway within the EU and within the Schengen area to combat illegal migration. These are described under the status quo policy option in Section 4. Within the EU and elsewhere there are examples of initiatives with analogies to the proposed entry/exit system and Registered Traveller Programme that have been implemented with a view to reducing illegal migration and these are reviewed in Annexes 1 and 2.

2.3 The scale and 'costs' of bona fide cross EU border movements

There are in the order of 300 million EU27 external border crossings per annum¹⁴ (i.e. approximately 150 movements into the EU and 150 million movements out) made at designated border crossing points. It is estimated that 160 million of these border crossings are made by EU citizens (80 million out and 80 in), 60 million by TCN not

¹³ The extent to which illegal migrants play a role in different sectors and regions of the EU economy was considered in the recent Impact Assessment of "Minimum sanctions to employers of illegally resident third-country nationals". See :

http://ec.europa.eu/governance/impact/docs/ia_2007/sec_2007_0603_en.pdf

¹⁴ The figure was calculated by adding the number of trips of EU residents outside EU27 with the number of TCN travelling to EU27. See Annex 5.

requiring, visa (30 million in and 30 out)¹⁵ and 80 million by TCNVH requiring visas (40 in and 40 out)¹⁶. In addition there is an unknown but relatively small number (probably less than one million) of illegal crossings not made at designated border crossing points. It is reasonable to assume that many travellers cross the borders more than twice per annum and that a significant minority of the crossings are made by frequent travellers. For example, EU and TCN business travellers, TCN residing in the EU (including those with work permits and students), EU citizens with close family connections to third countries, TCN and EU citizens living in regions bordering the EU are all likely to make multiple border crossings per annum. It is estimated that 20% of border crossings are for business and that around 20% of TCN applying for Schengen visas are regular travellers seeking multiple entry visas.

The flows have been growing and are likely to increase. Most EU external border crossings (an estimated 85% on the basis of Eurostat¹⁷) are made at airports. Sea ports are the next most frequently used type of border crossing. There are 1792 designated EU external border crossings with controls (665 air borders, 871 sea borders and 246 land borders)¹⁸. Relative to the scale cross border movements related to illegal migration the total flows are very large.

Existing regulations require that checks are made at borders (entry and exit) of the identities of passengers and whether TCN passengers are listed on various databases. This requires resources of border guards (an estimated 11,500 persons at a cost of 400 million euro are involved in this process)¹⁹. The process imposes costs on bona fide passengers. These costs relate to: the time taken at borders to complete formalities; the time and financial costs of getting appropriate travel documents and visas; and the consequences of mistakes being made. These costs are generally higher for TCN requiring visas than for EU citizens, as they have to spend time and money acquiring visas and because it currently takes longer to have their travel documents checked and processed at border crossings. There are also costs associated with granting visas. In the order of 11.5 million Schengen visas are granted per annum. An estimated 15,500 persons at a cost of 540 million euro are involved in this process.²⁰

¹⁵ The figure was calculated on the numbers of trips made into Europe by the most important countries (US, Canada, Brazil, South Korea, Japan and Oceania). See Annex 5.6. table 3

¹⁶ The figures are obtained by subtracting the number of EU nationals trips outside EU27 and TCN in to the EU27 from the overall number of cross-border movements (150 million).

¹⁷ Eurostat database on tourism

¹⁸ See Annex 5.5. table 1

¹⁹ This estimate is based upon data from the UK. There are an estimated 100 million passengers who enter the UK per annum. There are 2930 FTE staff who 'control' passengers as they enter the UK. If it is assumed that they cost an average of 45000 euro to employ and equip then the total costs are 132 million euro, equivalent to 1.30 euro per passenger entry. Given that in the Schengen area checks of travel documents are also made (by border control staff) on exit and there are a very large number of border crossings that have to be manned, it is reasonable to apply this cost per passenger crossing to the total estimated 300 million border crossings per annum. Thus the costs are probably in the order of 400 million euro. It has been assumed that the average FTE border control person costs 35,000 euro. However, it should be borne in mind that there are many other public sector resources, including police, passport and migration staff involved in combating illegal migration.

²⁰ This estimate is informed by data from the UK. In the period July 2006-2007 the UK issued 2.2 million visas to TCN. There are 2830 FTE staff employed in UK visa consulates most of whom are

Delays and associated costs are incurred at border crossings where there are imbalances in number of border control staff compared with the flows of travellers, leading to the formation of queues. Given the very large numbers of border crossings small changes in the time taken to make border crossings are potentially very significant. However, many other factors contribute to delays at border crossings. These include: check in times; time spent waiting for luggage; air traffic delays; and, security checks. For many border crossings, passport controls contribute just a small component of delays and the irregularity of delays due to passport controls points to them being a function of the way in which border crossings are managed rather than the current required procedures per se. The advent of the use of automated systems and controls has the potential to reduce the time taken and costs to travellers of bona fide border crossings.

The main proposals considered in this study could affect the scale and 'costs' of bona fide cross EU border movements. The Registered Traveller Programme might reduce the time taken to complete travel document checks of trusted travellers by facilitating their movements. The entry/exit system is not likely in itself to reduce the problem but could have implications for it.

Developments are underway within the EU and within the Schengen area to facilitate and reduce the costs to bona fide passengers of crossing EU external borders. These are described under the status quo policy option in Section 4. Within the EU and elsewhere there are examples of initiatives with analogies to the proposed Registered Traveller Programme that have been implemented with a view to facilitating bona fide border crossings. These include both Registered Traveller Schemes for particular border crossings and systems of Automatic Border Controls that check the identity of passengers using biometric information. These are reviewed in Annex 2.

2.4 Terrorism, serious crime and cross border movements

Terrorism and organised crime are major problems with strong international dimensions. Organised crime is growing and though difficult to predict terrorism is likely to remain a major problem. The problems are extremely expensive to combat and generate huge human and social costs. There are serious crimes closely related to cross border movements of people: travel document and identity fraud, people smuggling and human trafficking.

Border controls play a role in combating terrorism and serious crime. The controls involve identity checks and travel documents are compared with various databases of known persons. These procedures can lead to refusals to enter the EU. In 2006, excluding the figures for Spain that are very high (600,000) due to refusals made outside of the EU at Spanish enclaves in North Africa²¹, in the order over 300,000 persons were refused entry at EU borders²². Most of these were from third countries

local staff (i.e. 780 visas are granted per member of staff per annum). If it is assumed that each Member of staff costs an average of 35,000 euro to employ and equip then the average cost per visa is 45 euro. This process does not yet include biometrics. It is likely that the new price of a Schengen visa 60 euro is a better reflection of the cost of a visa under VIS.

²¹ Ceuta and Melilla are two Spanish enclaves in Morocco.

²² Figures for UK, Netherlands and Luxembourg were not provided. See Annex 5.1. table 1

where visas are required²³. This compares with the estimated 70 million TCN entries into the EU (both visa and non visa holders), approximately 4 per thousand are refused at borders. However, the majority of those refused entry are neither terrorists nor serious criminals but those without the appropriate travel documents and suspected of being prospective illegal immigrants.

Data available from SIS provide some indication of the scale and trends. Since 1995 more than 17 million records have been created on the SIS. The vast majority of these concern lost or stolen items, such as identity documents. Information from 2007 indicated that²⁴:

- More than 13 million records have been created on stolen identity documents (passports, identity cards, driving licence);
- More than one million records have been created on wanted persons (894,776 wanted persons plus 312,052 aliases);
- The vast majority of wanted people are TCN who should be denied entry under article 96 (e.g. rejected asylum seekers and people to be rejected on grounds of national security and public order²⁵). These were over 700,00 in 2003;
- Over 33,000 people have been placed under 'discreet surveillance'.

Specific restrictive EU measures are also directed against certain persons and entities with a view to combating terrorism. They include ETA (Basque Fatherland and Liberty), the IRA (Irish Republican Army), GRAPO (the First of October Anti-Fascist Resistance Group), the terrorist wing of HAMAS, Palestinian Islamic Jihad, Al-Qaida network and the Taliban and other terrorist organisations, as well as the names of individuals belonging to such groups.

The main proposals being considered in this study are potentially relevant to the reduction of this problem. The entry/exit system could provide travel histories of passengers including those that are considered suspects. Such data on the movements of terrorists and serious criminal suspects could be of some value in locating them and in subsequent prosecutions. If the entry exit system were applied to TCN not requiring visas, identity verification might improve for wanted persons from this group. The Registered Traveller Programme might have the potential to free up border control resources so that they could focus on groups of travellers assessed as being more and most likely to be linked to terrorism and serious crime.

The international nature of crime and terrorism has contributed to the development of mechanisms through which border controls might contribute to the detection and

²³ See Annex 5.1 table 2

²⁴ Council of the European Union "SIS Database Statistics 01/01/2007" 6178/07 of 13 February 2007

²⁵ Member States have different rules for registering aliens to be refused entry (e.g. Italy and Germany register rejected asylum seekers whereas the majority of other Member States do not), however, once aliens are in the SIS system, they are prevented from entering all of the Schengen area.

<http://www.statewatch.org/news/2005/may/sisII-analysis-may05.pdf>

apprehension of criminals and terrorists. Developments are underway within the EU and within the Schengen area to use border controls in this manner. These are described under the status quo policy option in Section 4. Within the EU and elsewhere there are examples of initiatives with analogies to the proposed entry exit system, such as the US-VISIT and a scheme in Finland complemented by the development and maintenance of databases listing wanted persons that can be interrogated when borders crossings are made and the provision of advanced passenger information in the UK. Examples of these schemes are reviewed in Annexes 1 and 2.

2.5 The challenges of economic migration

Economic migration is important to the development and competitiveness of the EU. It was estimated that in 2003 there were in the order of 16 million TCN residents in the EU²⁶. In the same year 600,000 new permits to stay were estimated to be issued²⁷. Legal economic migration to the EU involves: those with skills where there is demand exceeding supply; seasonal workers, largely working in the agriculture and tourist sector; students and trainees whose fees and expenditure contribute to the economy of the EU; and, those with family ties to EU citizens and TCN working in the EU²⁸. Some economic migration is permanent and some temporary. In addition to the direct economic contribution, economic migration to the EU generates and strengthens international links. At the same time there are challenges of integration from economic migration.

Several EU Member States have strategies to attract workers with the desired skill levels. For example, in 2005 the UK Government presented its five year strategy for immigration and asylum, which indicated an emphasis on highly skilled migrants.²⁹ In 2002 Germany adopted a major reform of their immigration laws to facilitate the entry of highly skilled workers.

Steps are being taken to harmonise procedures and set common standards for admitting workers from outside the EU.

A Proposal Directive on the conditions of entry and residence of TCN for the admission of highly qualified employment was adopted by the European Commission in October 2007, together with another Proposal Framework Directive on a single application procedure for a permit for TCN to reside and work in Member States.

Furthermore, a new Directive aimed at defining the procedures and admission conditions for seasonal workers is expected for 2008³⁰. For the time being, Member States have still the power to make their own decisions about rules and procedures for granting temporary work permits. For example, Italy operates a quota system establishing each year the number of seasonal work permits granted to specific third

²⁶ See Annex 5.3. Table 1

²⁷ Estimates based on a selection of European Member States. See Annex 5.3 table 3

²⁸ TCN Students and family members are not normally considered economic migrants but do have economic significance for the EU.

²⁹ *Controlling our borders: Making migration work for Britain*, Home Office, 7 February 2005.

³⁰ See European Commission Green Paper on an "EU Approach to Managing Economic Migration" COM (2004) 811 OF 11.01.2005

country nationals.³¹ In some countries, like Germany and the UK, the number of seasonal workers permits has recently decreased as a consequence of the European enlargement.

Economic migration to the EU is also important for third countries. Those TCN working in the EU send home remittances that can represent a significant proportion of the GDP of the countries of origin. Outward migration can lead to increased female participation in the labour market and positive development trends. At the same time out migration can also be a source of 'brain drain' and 'loss' of the public investments made in human capital.

Economic migration to the EU has increased although recent trends have been affected by enlargement. Some recipient countries have accommodated inflows from new member states that might otherwise have been inflows from third countries.

In light of demographic changes (a lower proportion of EU population will be of working age) and significant out flows of EU citizens economic migration is likely to grow³².

So that the key challenge to maintain a good fit between the requirements of the EU labour markets and economic migration is attained, the management arrangements need to maximise the reliability and public confidence in the system of control. Border controls have a role to play in this.

The main proposals might contribute to meeting these challenges. The entry/exit system might have the potential to reduce illegal immigration due to overstaying and indirectly increase confidence that migration policies could be adjusted in light of supply and demand. The Registered Traveller Programme might 'free up' resources that could be used to improve controls.

Developments are underway within the EU and within the Schengen area to improve the management of economic migration. These are described under the status quo policy option in Section 4. Initiatives concerning border controls tend to make an indirect rather than direct contribution to the management of economic migration. Within the EU and elsewhere there are examples of initiatives with analogies to the entry/exit system that have the potential to both generate improved information on the cross border movements of migrants and incentives that would increase the likelihood of migrants not becoming irregular and illegal and thus the overall confidence in the management measures. Relevant schemes are reviewed in Annex 3.

³¹ Governo Italiano Dossier
http://www.governo.it/GovernoInforma/Dossier/aumento_flussi_ingresso/index.html

³² It is estimated that there are around 30 million EU citizens living outside the EU. The trend of EU citizens moving outside the EU is increasing especially in certain countries such as Ireland and UK. Commission communication "Towards an effective diplomatic and consular protection of Union citizens in third countries" and Commission Recommendation on "Reproducing the text of Article 20 EC in passports.

Concerns have sometimes been expressed that the outflows of EU citizens include a relevant number of highly qualified people: "Taking Action to Stop EU Brain Drain"
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/03/1051&format=HTML&aged=0&language=EN&guiLanguage=en>

3 POLICY OBJECTIVES AND OTHER ASSESSMENT CRITERIA

3.1 Introduction

This section of the report describes the policy objectives of the proposals under consideration and the other assessment criteria that have been applied in order to prioritise the policy options

3.2 Policy objectives

The identification of policy objectives is critical in Impact Assessment. The policy objectives should reflect the political and operational aims of the Community for the implementation of an automated entry/exit system at the EU external borders and a Registered Traveller Programme. The policy objectives provide the basis for several of the assessment criteria that have been applied to the consideration of each policy option.

The policy objectives for the policy options under consideration may be expressed as follows.

The four general objectives are, in the order of priority endorsed by the Steering Group:

- To reduce illegal migration;
- To facilitate the crossing of EU external borders for *bona fide* travellers, ensuring overall coherence of EU border policy;
- To contribute to the fight against terrorism and serious crime;
- To improve the effective management of economic migration (for example, seasonal workers)

The specific objectives relating to each of the general objectives are:

General objective 1

- To identify those TCN that overstay their right to be in the EU
- To generate information that would help to apprehend irregular and illegal migrants including overstayers and to deter illegal immigration;

General objective 2

- To reduce the time taken and other 'costs' crossing EU external borders by (frequent) *bona fide* travellers;
- To enable border control resources to better focus on checking riskier groups of travellers and tackle illicit movements of people;

General objective 3

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

- To generate information that would prevent terrorism and serious criminal activity;
- To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects.

General objective 4

- To increase the confidence of authorities to grant permissions to TCN to enter and work in the EU to meet labour market demands;
- To decrease the likelihood that those TCN granted permission to work in the EU would overstay.

The operational objectives include:

- To alert authorities of the identity of overstayers;
- To facilitate the sanctioning of overstayers;
- To decrease the time and costs of border crossings to EU citizens ;
- To decrease the time and costs of border crossings to *bona fide* travellers of TCN;
- To 'free up' border control resources from the checking legitimate cross border movements;
- To identify the cross border movements of potentially dangerous TCN and EU citizens;
- To identify the compliance of seasonal (and other categories of) TCN migrants to the EU to their conditions of migration.

These objectives reflect the apparent intent of the two main policy options identified in the Terms of Reference (i.e. the entry/exit system and the Registered Traveller Programme). However, each of these two options is strongly oriented towards particular objectives. The entry/exit system is oriented towards the reduction of illegal migration and management of economic migration, whilst the Registered Traveller Programme option is oriented towards facilitating border crossings to bona fide travellers. Thus the development of both systems would balance the increase in security at borders while reducing border crossing times for those participating in a facilitated scheme.

The policy options have been assessed on a five point scale with respect to their likely performance relative to the policy objectives.

3.3 Other relevant criteria

Each policy option has also been assessed relative to a common set of criteria. These criteria derive from the general economic, social and environmental criteria and wider consideration applied in Impact Assessments.

The other relevant criteria are:

Robustness in the light of substantive and policy changes: Consideration has been given to the robustness of the policy options under different scenarios. These scenarios include: increases in international and cross border travel; and, the development of different immigration strategies:

Costs and benefits to EU citizen travellers: The time taken by different groups of passengers to cross borders, and the potential for mis-recognition have been considered.

Costs and benefits to bona fide TCN travellers: the costs and time taken to obtain the requisite travel documents, the risks of mis-recognition and consequences should the policy option fail to recognise their legitimate cross border movements has been considered.

Social and Economic repercussions on the EU: Consideration has been given to the likely impact on business, trade and labour market

Social and economic repercussions on Third Countries: Consideration has been given to the likely impact on remittance in some options.

Environmental impacts: For example, some impacts may derive from physical infrastructure investments in some options.

Impacts on fundamental rights, particularly privacy and data protection: For example, all policy options could involve the storage of data on the movements of individuals. The data protection considerations and mechanisms to protect privacy have been considered.

Net costs of implementation: Consideration has been given to the administrative implications of the policy options (for example, the costs for border authorities). Both capital and revenue expenditure were considered as well as the possibilities of income being generated from travellers.

Need for changes in Community legislation: The implications for existing and possible new legislation have been considered.

Necessary pre conditions, accompanying measures to achieve impacts: consideration has been given to the measures to ensure effectiveness, such as the need that migration enforcement resources are available and the information generated by the entry/exit system is used.

Key risks and technical feasibility: Whilst this assignment has not been concerned with detailed aspects of the technical arrangements and costs of the systems that will be needed to implement the policy options consideration has been given to key pre requisites and assumptions including those concerning the status quo. Regard has also been given to the different types of borders (airports, seaports, land borders).

Key implications of scope and phasing of the policy options

In this preparatory study the views of key stakeholders including Member States have not been taken into account in assessing the policy options. If appropriate, political considerations will be mentioned with respect to the preferred policy option.

4 THE POLICY OPTIONS

4.1 Introduction

This Section describes each of the policy options and sub policy options in turn. The options being considered are only several of many measures concerning the management of EU migration and cross border flows of people. Particular aspects of each policy option and sub option could radically influence its feasibility, costs and the effects it might have relative to the policy objectives being pursued. Thus the key parameters are elaborated.

The policy options assessed

Table 4.1 summarises the policy options that have been assessed. The choice and definition of policy options and sub options has been made in light of the following considerations:

- *Policy Option 1 The status quo:* The status quo policy option needs to reflect a large number of important developments that are underway and the substantial improvement in infrastructure for the management of cross border flows that are anticipated to occur. These improvements are not yet in place but expect to be fully implemented over the next several years.
- *Policy Option 2 The entry/exit system:* There would be significant differences in the implications for applying an entry exit system to TCNVH and other TCN not requiring visas to enter the EU. In particular the latter would need to be 'enrolled'. Hence two sub options have been defined, one relating to TCNVH and one to other TCN wishing to visit the EU have been assessed.
- *Policy Option 3 Measures for facilitating cross-border flows (Registered Traveller Programmes and Automated Border Control systems³³).* Such a policy option could take several forms, and be applied to different categories and apply different eligibility criteria. Three sub policy options have been chosen so that the Impact Assessment process can assess the implications of the main difference that could apply. The sub policy option of a Registered Traveller Programme for TCN would be, in part, a response to the additional constraints and implications for cross border travel that an entry/exit system could impose. The assessment of the two sub policy options relating to EU citizens illustrates the differences in approach between establishing a single EU wide system (a Registered Traveller Programme for EU citizens) and establishing a legal basis for minimum standards for the development of a number of systems (i.e. Register Traveller Schemes and Automated Border Controls) tailored to the needs of particular border crossings and groups of EU travellers. The advent of e-passports will affect to potential of such measures.

³³ The glossary provides definitions of the two different systems. Registered Traveller Programmes (RTP) involve passengers' pre-enrolment (Registration) including the checking against watch-out lists. Passengers participating in RTP are considered 'secure' and have access to separate channels at border points. Automatic Border Controls (ABC) are for assessing passenger identity without human intervention and pre registration is not required.

- *Policy Option 4* Obligation to confirm return to country of origin or bond system for migrants: neither of the two sub policy options were mentioned in the Terms of Reference for the study, nor have they been mentioned in relevant policy documents. The first sub option has been included because it would provide information to relevant authorities similar to that which would be generated by an entry/exit system. The second sub option, proposing a system of bonds, would also provide similar information to an entry/exit system and also an incentive that could discourage overstaying by those TCN who legally enter the EU. The Commission's Guidelines on Impact Assessment encourage the inclusion of policy options different from those that are being proposed by the Commission.

Each of the main policy options and sub options are described further below.

The policy options and sub policy options considered but not assessed

A separate Policy Option involving the pooling of data on 'potentially dangerous persons' was considered but eliminated because of overriding legal constraints and its relevance to only one of the four main policy objectives.

The possibility of extending Policy Option 2 the entry/exit system to EU nationals was also considered because of the possible benefits with respect to identifying histories of cross movements of 'potentially dangerous persons' from within the EU. However, the need for a legal basis and implications for data protection were considered as likely to considerably outweigh the potential benefits.

In addition, several technical options for the entry/exit system for Third Country Nationals were considered. The possibility of an entry/exit system not using biometrics was considered but eliminated because the reliability of identity verification would be low as it would be difficult to detect forged and faked documents and the system would be slow compared with one using biometrics where border guards would not need to undertake paperwork. The assessment has focussed on a system that makes use of the developments that are taking place in the status quo and in particular the Visa Information System. Developing entirely separate systems would be costly and disproportionate and would not utilise synergies.

As for the Policy Option 3 other sub options were briefly considered including:

The use of alternative biometrics particularly iris recognition in the harmonised Registered Traveller Programme for EU citizens (sub option 3b) but this was considered likely to be very expensive, requiring investment over and above biometric recognition equipment that would rely on e-passports (already including fingerprints), and involving longer enrolment times.

Treating the visa as permission to enter and thus speeding the entry of TCNVH which, were an entry/exit system to be place, could be an alternative to sub option 3a a Registered Traveller Scheme for TCN because the time taken for TCN to cross borders would decrease. Such an option would however, have implications for visa policy that are arguably outside the scope of this study (e.g. at the moment holding a visa does not mean that the holder satisfies the entry conditions for access to the EU)..

Table 4.1 Outline of the policy options assessed

Policy Option		Description of policy option
Policy Option 1	Status quo	The current rules and practices continue to apply. The automated entry/exit tracking systems and EU facilitation schemes for travellers are not introduced. However, SIS II and VIS are developed and fully implemented. That is, all TCN requiring visas undergo biometric identity checks when entering and leaving the EU. There are also moves towards common consulates that may increase efficiencies in the visa granting process. Other planned measures to reduce illegal migration such as the harmonisation of employer sanctions are introduced as well as measures that might facilitate legal migration such as the EU blue card for migrant workers. The introduction of e-passports will allow for possibilities for automated border controls.
Policy Option 2	Entry/exit system	An automated entry/ exit tracking system for passengers is introduced allowing the sanctioning of those not acting in conformity with their visa provisions and their right to stay in the territory of the EU. The option would involve both recording movements and the provision of alerts when TCN have apparently overstayed. The information would be retained for a certain period (e.g. five years). Two sub policy options have been considered:
		2a Entry/exit TCN requiring visas
		2b Entry/exit for TCN not requiring visa
Policy Option 3	Measures for facilitate cross-border flows (Registered Traveller Programmes and Automated Border Control).	A Registered Traveller Programme is introduced that would facilitate the passage of members of the programme across EU external borders using biometrics. Three sub policy options have been considered:
		3a A Registered Traveller Programme available to TCN
		3b A harmonised Registered Traveller Programme available to EU citizens
		3c Minimum standards are established for Registered Traveller schemes and Automated Border Control for EU citizens.
Policy Option 4	Obligation to confirm return to country of origin or bond system for migrants	Two sub options have been considered:
		4a A requirement for TCN wishing to visit the EU to provide, upon return to the country of origin, a proof of having respected the duration of stay, as a condition to re-enter EU.
		4b A system of bonds is introduced whereby TCN visiting the EU provide a bond that is reimbursed on leaving the EU in conformity with their visa provisions.

4.2 Policy option 1 Status Quo

There are a number of important measures designed to contribute to the policy objectives that are in place, or that will be put in place, irrespective of the adoption of proposals for an entry/exit system and Registered Traveller Programme. The precise nature of these measures, particularly in so far as they relate to the checks that will be made on different types of passengers crossing EU borders, are critical to the assessment of the policy options.

The most fundamental aspects of the status quo pertinent to this Impact Assessment study are:

- Current procedures involve thorough checks of TCN at both entry and exit consistent with the Schengen Borders Code³⁴. The main rule on entry and exit checks is set out on Article 7 of the Border Code, requiring 'thorough' checks of TCN on entry and exit. At exit border guards must carry out checks that the person holds a valid travel document, that the travel document does not appear to be forged, and 'whenever possible' that the person is not a threat to internal security or international relations of any of the Member States. In addition, exit checks may also entail checks in the SIS and national database (s), a check to see if the person has overstayed and a verification that the person holds a valid visa if this is required. Article 8 of the Border Code states that border checks may be relaxed as result of exceptional and unforeseen circumstances leading to excessive waiting time. When border checks are relaxed, entry checks take priority over exit checks.
- The VIS will be in place by 2009³⁵. SISII is expected to be in place by the end of 2008. Given that a two-year worldwide rollout period at consular posts has been politically agreed³⁶ all TCN requiring visas to travel to the EU Schengen area will have supplied biometric details when acquiring a visa by 2011. These biometric and other data will be held on the central VIS database. When the TCN Visa Holders (TCNVH) cross the EU external borders on entry and exit³⁷ they will have to provide their biometric information for verification. Data will be compared with the visa record held in the VIS central data base so that the identity of the traveller can be automatically validated.
- The equipment required to undertake the biometric checks for TCNVH will be available at all EU border crossing points.
- The checks will be undertaken with a very high degree of reliability (in terms of the identifications being correct) and at very high speed. European Commission consultees estimated that checking fingerprints will take approximately 15/20 seconds. It is estimated that 5% of checks may be unreliable due to for example smudging, injuries, etc.
- SIS and national databases are systematically checked as part of visa application procedure and at entry and exit of the EU. There will be technical links between SIS (II) and VIS in the future, after both systems have become operational.

The following EU level measures (legislative instruments, funding, recommendations and general measures) would be maintained in the status quo option:

³⁴ http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_105/l_10520060413en00010032.pdf

³⁶ JHA Council conclusions of 2.12.2005

³⁷ It has not yet been decided to extend the biometric check to the exit from the EU of TCNVH, however, this decision is anticipated when the VIS regulation is supplemented in 2008 by the Common Consular Instructions and Schengen Borders Code, this assumption is critical to this Impact Assessment study. Neither are biometric checks on entry so far required, but the status quo assumes that this will be the case

- Directive 2002/90/EC and Framework Decision 2002/946/JHA. This Directive and Framework Decision define the facilitation of unauthorised entry, transit and residence and sets out a penal framework to prevent these phenomena. The Directive³⁸ stipulates (Art. 1) that Member States are to adopt sanctions on "any person who, for financial gain, intentionally assists a person who is not a national of a Member State, to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens". However, the type of sanctions is not specified, i.e. sanctions are not harmonised³⁹.
- Article 1 of the Framework Decision 2002/629 JHA of 19 July 2002 on combating trafficking in human beings. This Framework Decision provides that Member States are to criminalise any form of recruitment, transportation, transfer or harbouring and any other treatment of a person for the purposes of labour exploitation. Article 3 clarifies that these offences have associated penalties.
- At European level, the European Commission has elaborated a common policy on the return of illegal immigrants in the 2002 Return Action Programme. This was followed by a directive on the assistance in case of transit for the purpose of removal by air⁴⁰, a directive on the organisation of joint flights for the repatriation⁴¹. The European Commission has also proposed a directive⁴² on common standards and procedures in Member States for returning illegal staying third country nationals. The Directive, which is currently being discussed by the European Parliament and the Council, provided for common rules concerning returns, use of coercitive measures, temporary custody and re-entry. Furthermore, in order to deal with the financial dimension of return, a Return Fund has been established within the context of the "Solidarity and Management of Migration Flow"⁴³ for the period 2008-2013 (see point below).
- In 2007 the Framework Programme Solidarity and Management of Migration Flows will be launched. This Framework Programme encompasses four new funds related to: (1) refugees; (2) external borders; (3) the integration of third-country nationals; and, (4) return.
- Legislation on e-passports: all new passports issued since June 2006 contain biometrics (i.e. a digital photo), and all new EU passports and travel documents issued from autumn 2009 will include two biometrics (i.e. a digital photo and

³⁸ Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence.

³⁹ According to Art. 3 "Each Member State shall take the measures necessary to ensure that the infringements referred to in Articles 1 and 2 are subject to effective, proportionate and dissuasive sanctions". Humanitarian assistance is excepted (Art. 2)

⁴⁰ Council Directive 2003/110/CE of 23 November 2003

⁴¹ Council Directive 2004/573 29 April 2002

⁴² COM (2005) 391

http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0391en01.pdf

⁴³ http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0123en01.pdf

fingerprints placed on the contact less chip)⁴⁴. Given that passports are valid for up to ten years (though some MS have a maximum validity period of five years), all European citizens holding passports will have both biometrics in their passport by 2019⁴⁵. This will allow for the introduction of automated border controls at EU external border crossings for EU citizens.

Other relevant instruments which are assumed to be in place under the status quo option are:

- Improved management of the EU external borders via the implementation of the integrated border management strategy adopted by the Council in 2006⁴⁶. This strategy includes increased capacity of Frontex; examination of the creation of a European Surveillance System for the southern maritime borders; enhanced efficiency of cooperation on search and rescue, and the taking forward of work to assist in developing guidelines on the legal scope for action to be taken to counter illegal migration by sea; and, a Regulation on the establishment of Rapid Border Intervention Teams.
- Harmonisation of employer sanctions for employers of illegally staying Third Country Nationals. A directive has been proposed by the Commission on the 16 May 2007⁴⁷.
- Improved coordination and cooperation between country of origin and country of transit.
- Directorate General for Transport and Energy (DG TREN) feasibility study to scope scheme for 'safe' passengers who may qualify for reduced security searches at European airports.
- Commission proposals within the framework of the Policy Plan on Legal Migration of December 2005, including the facilitation of immigration of seasonal workers. For example, an EU Blue Card might be created to allow skilled workers to work in an EU Member State for an initial two year period.⁴⁸

⁴⁴ Council Regulation 2252/2004 of 13 December 2004 on Biometrics in Passport.

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_385/l_38520041229en00010006.pdf

⁴⁵ The Regulation on Biometrics in Passport does not require that National Identity Cards have biometrics. However, in 2005 the UK Presidency of the Council of the EU presented a proposal for establishing common security standards (biometrics) for all national identity cards issued by MS.

<http://www.statewatch.org/news/2005/jul/11092-05.pdf>

The final version of the proposal states that Member States can choose whether they want biometrics on national ID cards.

<http://www.statewatch.org/news/2006/feb/eu-id-15000-05.pdf>

⁴⁶ See: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/92202.pdf

⁴⁷ COM 2007 (249) Proposal for a Directive providing for sanctions against employers of illegally straying third country nationals

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_385/l_38520041229en00010006.pdf

⁴⁸ This proposal was adopted on 23rd October 2007.

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

- A proposal for a Council Directive on a single application procedure for a single permit for third country nationals to reside and work in the territory of a Member State and a Directive on a minimum set of rights for third country workers legally residing in a Member State have been adopted⁴⁹.
- Common Approach to the Use of Passengers' data for border and aviation security and other law enforcement purposes.
- Moves towards common visa offices that may increase efficiencies in the visa granting process.
- Developments (already in train) at national level within the EU on entry/exit, Registered Travellers Programmes and Automated Border Controls.

4.3 Policy option 2 Entry/exit system

The essential components of this policy option are:

- There would be a system for recording the point and date of entry and of exit of TCN travellers at all EU external border crossing points. The information would be held on the VIS for an agreed retention period.
- Identity checks would be carried out according to VIS.
- Overstayers would be detected and sanctioned. The sanction might consist of reducing or eliminating the future right of entry to the EU, or in a fine, leaving unchanged the entitlement to apply for a future visa and future entry in the EU.
- The definition of who is identified as an overstay, who is exempted under which circumstances and what might constitute an appropriate sanction would be consistent at the EU level. The definitions and sanctions would not necessarily be harmonised but there would not be marked variations between countries.
- The system would identify to the appropriate authorities⁵⁰ those who had entered the EU but (apparently) not left before the expiry of their right to stay.
- The system would include the facility to amend the date of exit deadline in the light of the actual date of entry.
- The system would take account of TCN being 'forced' to extend their stay in the EU in enforcing 'sanctions' (e.g. should a national visa be granted due to flight cancellation, illness or other humanitarian reasons such as the person being a victim of trafficking, sexual and labour exploitation).

⁴⁹ These two proposals were adopted on 23rd October 2007.

⁵⁰ Generally Immigration Authorities, but also others authorities, such as enforcement authorities, depending on the allocation of power and responsibilities in each Member State.

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- The costs of the policy option could be met through a combination of charges for visas and public investment.
- The movements of TCN would be separated from those of EU citizens at both entry and exit. (This should already be done at both entry and exit points c.f. Article 9 of the Schengen Border Code).
- TCN enjoying free movements (i.e. family members of EU nationals) and TCN that are local border residents in neighbouring countries as well as other TCN exempted from stamping will not be subjected to entry/exit requirement.

Two sub options have been considered.

Sub Option 2a Entry exit TCN requiring visas

In this sub option the entry/exit system would apply to TCNVH. Visas confer only limited rights to stay and work in the EU and hence TCNVH could become overstayers. No increases in visa prices would occur.

There are in the order of 11.5 million (Schengen) visas granted to TCNVH each year. It is estimated that TCNVH make over 40 million trips to EU ⁵¹.

Sub Option 2b Entry exit for TCN not requiring visas

In this sub option the entry/exit system would apply to TCN not requiring visas. TCN not requiring visas are subject to limited rights to reside and work in the EU and could hence become overstayers. TCN not requiring visas would have to 'enrol' at the point of entry to the EU and would provide biometric information equivalent to that provided by TCNVH. This would ensure that the recording of their entry and exit could be verified in the same manner as TCHVH. No charge would be made for enrolment as this would be a condition of entry to the EU.

There are more than 30 million trips are made to and from the EU27 by people from countries not requiring visas. Thus there are more than 60 million border crossings. In addition there are trips made by TCN residing and working in the EU and those visiting and staying with friends and relatives.

Key differences with the Status Quo of Policy Option 2

The key differences with the status quo are: there would be a systematic register and recording of the time and point of exit (as well as entry) of TCN; there would be an increased probability of being 'sanctioned' for 'overstaying' or otherwise not abiding by visa or 'rights to be in the EU' requirements; and, improved information would be generated on the cross border flows of TCN.

⁵¹ The figure was calculated by deducting the numbers of trips into Europe made by the TCN non-visa holders for the most important countries (US, Canada, Brazil, South Korea, Japan and Oceania) out of the total number of TCN entering Europe. These estimates are based on figures from 2006. See Annex 5.6. table 2 and 3

4.4 Policy option 3 Measures to facilitate cross-border flows (Registered Traveller Programme and Automated Border Control)

The essential components of this policy option that have been considered are:

- Passengers, potentially including both EU citizens (with and without e-passports) and TCN, would be able to register for the Registered Traveller Programme(s) on a voluntary basis.
- For the Registered Traveller Programme(s) criteria and administrative procedures would be put in place to establish that the traveller was bona fide and 'safe'.
- Applicants would provide biometric details. The biometrics taken could be similar to those that will be required for e-passports (i.e. two fingerprints and a digitised facial data) or ten flat fingerprints as recorded on the VIS. (However, several existing Registered Traveller schemes use iris biometric information).
- The biometric information would be held on a special 'card' (or on their e-passport) or on a separate database identifying them as a member of a Registered Traveller Programme.
- Separate channels would be put in place at EU external border crossings that were available for members of the Registered Traveller Programme members would thus be able to cross the border more rapidly.
- For Automated Border Control, e-passports would normally be used to verify EU citizens' identity and perform random checks. Separate channels would be put in place for those 'equipped' to pass through Automatic Border Control.
- TCNs entries and exits would not be automatically recorded (as would be the case under policy options 2a ad 2b). The movements of EU citizens who might participate in the Registered Traveller Programme and Automated Border Control would also not be recorded.

Three sub policy options have been considered:

Sub option 3a A Registered Traveller Programme available to TCN

In this sub option, TCN wishing to travel to the EU would be able to apply to become members of a Registered Traveller Programme. The vetting criteria applied could be similar to those required for multiple visas and multiple entry visa holders could be automatically granted Registered Traveller status, but other requirements might be introduced (e.g. the TCN might need to be checked against watch lists both in their own country (subject to agreements with TC) and in the EU)⁵². Vetting, which could take place at visa consulates or, for travellers not requiring visas, at the point of entry to the EU, would need to be periodically updated. Searches would be made of relevant databases, national as well as EU (e.g. SIS(II)). Biometric data captured could be the same as for the VIS. Some border posts would introduce separate channels for Registered Travellers, particularly those where delays to TCN are severe. A fee could be charged for those registered on the programme (However, the cost savings through reductions in the supervision of the separate channels could provide a case for not making a charge).

⁵² Analogous checks are made under the ABTC card system for APEC countries described in Annex 2.

It is difficult to estimate the numbers of TCN that would chose to apply and be accepted on such a Registered Traveller Programme. Demand would depend upon the fees charged, the stringency of vetting, the time taken to process application and the difficulties faced in otherwise crossing borders. Eligibility criteria could limit the numbers deemed suitable (for example, the Programme could be limited to business travellers with strong verifiable connections to businesses in the EU). There are in the order of 11.5 million Schengen visas issued each year. It is estimated that around 20% of applications are for multiple-entry visas. It is reasonable to assume that should sub-policy option 2b be implemented a similar proportion of TCN not requiring visas and other TCN resident in the EU would wish to take part in the programme. It is reasonable to assume that several million regular TCN travellers would wish to become members of the Programme⁵³.

Sub option 3b A harmonised Registered Traveller Programme available to EU citizens

In this sub option all EU citizens would be able to apply to become a member of the Registered Traveller Programme. The vetting criteria would consider aspects of security and the need for frequent cross-EU border travel. Vetting would take place at major border crossings such as international airports. The Registered Traveller Programme would not require biometric information over and above that which will be required for e-passports. Use would be made of automatic biometric identity verification, but random and secondary checks would still be made. Membership of the Programme would enable registered travellers to use special channels at (potentially) all EU crossing points. No fees would be charged.

It is difficult to estimate the numbers of EU citizens (and residents) that would chose to apply and be accepted on such a Registered Traveller Programme. Demand would depend upon the stringency of vetting, the time taken to process application and the difficulties faced in otherwise crossing EU external borders. Eligibility criteria could limit the numbers deemed suitable. Around 80 million trips are made by EU citizens outside of the EU27. It is reasonable to assume there are at least 3 million regular EU travellers who would wish to become members of such a Programme.

Sub option 3c Minimum standards are established for Registered Traveller schemes and Automated Border Control system for EU citizens.

In this sub option minimum standards would be established enabling the development of Registered Traveller schemes and Automated Border Control systems. Minimum standards would be established and applied to parameters such as: eligibility; the technical standards of automated recognition systems; secondary and random checks; data protection; and, possibly pricing policies. The standards would need to be regularly reviewed in light of best practices and technological developments. For Registered Traveller Schemes, a number and range of different schemes would be developed at the national or facility level in response to demand and in order to improve the management of external border controls. Registered Travellers on one scheme would not necessarily be able to benefit from other schemes (e.g. national scheme might use different biometrics and might have different registration requirements); minimum

⁵³ During the first year the number of applications is likely to be similar to those applying for multiple visas but the numbers would probably decline should membership of the Registered Travel Programme last for several years.

standards would be established to ensure appropriate levels of security and performance.

For Automated Border Control, e-passports would be used to automatically verify EU citizens' identity. EU citizens holding e-passports would be able to benefit from Automated Border Control at all border points in which the facility is available without having to register or 'pre-enrol'. Technical standards for ensuring interoperability and that ABC systems are a reliable basis for automated recognition of e passports at different border crossings would be necessary.

Key differences with status quo of policy option 3

The key differences with the status quo are for sub option 3a: border crossings would need to be modified for two classes of TCN traveller, those on the programme and others; and, additional vetting over and above that required for visas (and enrolment of TCN not requiring visas) might be required. For sub option 3b the key differences with the status quo would be the provision for EU frequent travellers to use separate channels at border crossing through being part of one (rather than several) programme. For sub option 3c the key difference with the status quo would be that EU citizens holding e-passport would be able to go through automated lanes without registering, and the assurance that all registered traveller schemes and Automated Border Control in the EU met minimum security and performance standards.

4.5 Policy option 4 Obligation on TCN to confirm their return to country of origin or Bond/tax scheme for TCN migrants

Sub option 4a TCN requiring visas are obliged to provide proof of their return to country of origin

In this sub option TCN requiring visas to visit the EU would be required to provide upon return to the country of origin a proof of having respected the duration of stay as a condition to re-enter EU. Under the Status Quo such travellers will have to provide biometric information and this will be held on the VIS. Their identities will be checked on entry to and exit from the EU, passports will be stamped but the time and place of entry and exit will not be recorded. In order to verify that TCNVH had left the EU, this policy option foresees they would have to return to the visa consulate in their country of origin and provide biometric information to prove their identity and verify that they had left the EU in due time. Thus the sub policy option would provide information on exits made within the provisions of visas and information on the identity of 'overstayers' who had not verified that they had left the EU in due time.

This sub policy option would affect all TCNVH with the possible exception of those holding multiple visas. Around 11.5 million (Schengen) visas are granted each year. It is reasonable to assume that well over 5 million 'returns' to a visa consulate would be required per annum.

Sub option 4b: A system of bonds for those requiring visas to visit the EU

In this sub option TCN requiring visas would be required to provide a 'bond' to EU consular authorities if they have been granted visa. The payment of the 'bond' would not entitle the payee to enter the EU. This 'bond' would be reimbursed to the TCN providing that they conformed to the requirements of their visa or right to stay. These requirements would normally include providing evidence that they have left the EU. Thus the sub policy option would provide information on exits made within the provisions of visas and information on the identity of 'overstayers' who had not reclaimed their bonds in due time.

The 'bonds' could be centrally managed on behalf of the EU Schengen or countries participating in the scheme. The system of bonds could be used to offset the costs of visas to TCN. (The interest accruing on the bonds could enable a reduction in the costs of visas). Governments of third countries might wish to themselves finance the bonds of their nationals to encourage them to, for example, work within the EU for a period of years with a view to generating remittances and skills that can be 'brought home'. The EU might itself finance bonds to individuals as a means of development aid. (A form of migrant tax might also serve a similar purpose as the bond but as this would need to be an 'EU tax' then there would considerable institutional constraints on introducing it).

A system to administer the bonds would need to be established. The sub policy option would not require investment in biometric recognition systems and thus could be operational in the short term. However, data generated by an entry exit system (PO2a) could be used to verify that TCNVH had in fact left the EU and should therefore receive back the bonds paid by them or on their behalf.

Potentially the 'bonds' could be applied to all TCNVH and/or other TCN. For the bonds to be effective as a deterrent to overstaying they would need to be set at different levels for different classes of TCN depending upon the form of visa applied and their characteristics

Key differences with the status quo

The key difference with the status quo of sub option 4a is TCNVH would be required to visit consulates after their return to their country of origin. The key difference with the status quo of sub option 4b is the TCNVH would have to provide financial bonds that would only be returned should there be proof of their exit from the EU within the terms of their visa.

5 COMPARATIVE ASSESSMENT OF POLICY OPTIONS

5.1 Introduction

This section considers each of the policy options and sub policy options described in Section 4 against the criteria deriving from the policy objectives and the wider considerations of Impact Assessment introduced in Section 3. The relative merits of the policy options are then considered and the preferred option identified. The baseline situation against which the ratings are made assumes the successful implementation of the status quo. Thus it is inappropriate to compare the scores of the status quo with the various policy options under consideration.

5.2 Policy option 1 The Status Quo

Table 5.1 Summary assessment of Policy Option 1 the Status Quo

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	√	<i>Some contribution.</i> Improved identity checks through the use of biometrics at entry and exit of EU will deter the use of false identity documents to enter the EU illegally. The provisions of VIS and harmonised employer sanctions are anticipated to reduce illegal migration. Problems of overstaying and clandestine entry will continue.
Policy objective: To generate information that would help identify and apprehend irregular and illegal migrants including overstayers	√	<i>Some contribution.</i> The identity of overstayers who are apprehended could be more readily validated as they would have provided biometric and other information under VIS. VIS should also reduce the numbers of TCNVH entering the EU with forged documents
Policy objective: To facilitate bona fide crossings of EU external borders	–	<i>Possible deterioration for TCNVH.</i> In practice there could be significant deterioration in cross border travel by TCNVH as waiting times may increase due to biometric checks being undertaken.
Policy objective: To generate information that would prevent terrorism and criminal activity	√	<i>Some contribution.</i> The identity checks at borders should be improved through the use of biometrics for TCNVH. SIS and national databases will be searched at time of visa application and at entry and exit of EU. However known terrorists are unlikely to apply for visa and much of international terrorism and criminal

		activity is undertaken by EU citizens
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	√	<i>Some contribution.</i> The identity checks at borders should be improved through the use of biometrics for TCNVH. SIS and national databases are searched at time of visa application and at entry and exit of EU.
Policy objective: To improve the effective management of economic migration	√	<i>Some contribution.</i> The improvements anticipated in controlling illegal migration through VIS and the harmonisation of employer sanctions may increase the confidence to grant visa to temporary migrants and thus improve the management of for example seasonal workers.
General and specific assessment criteria		
Robustness in the light of substantive and policy changes		VIS is expandable were there to be an increase in TCNVH coming to EU. The database anticipated for 2009 would store data records of up to 70 million visa holders/visa applications. Visa granting criteria and applicable countries can be adjusted. However, work permits and residence permits are granted at national level.
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)		Significant concomitant increases in uses of biometrics, ID cards etc and the reliability of technologies are likely to increase and the costs to decline.
Social and economic repercussions on Third Countries		Repercussions are dependent on migration and visa policy. Some small potential negative effects if illegal economic migration and associated remittances are reduced. Positive effects if system increases confidence to grant visas to temporary economic migrants.
Environmental impacts		Physical investment in borders will take place but is likely to be within existing border posts. Impacts likely to be minor.
Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc		Identified in previous Impact Assessments, safeguards due to be in place, in particular as regards access to VIS by law enforcement authorities, individuals' rights, and definition of purposes.
Costs and benefits to bona fide EU citizen travellers		Effects on EU citizens who have TCNVH family members as their waiting time at borders will increase. Scope for introduction of automatic recognition that could reduce waiting times.
Costs and benefits to bona fide TCN travellers		Costs to acquire visas and waiting time to cross borders might increase. But, potential benefits as visas and biometrics remain valid.
Capital/investment costs (EU, MS, border authorities)		NA to this policy option
On going financial costs (EU, MS, border authorities)		NA to this policy option

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

Net costs of implementation (The standard Commission grids will be elaborated)	NA to this policy option
Aspects of feasibility, risk and pre conditions to achieve impact	
Need for changes in Community legislation	NA to this policy option
Necessary pre conditions, accompanying measures to achieve impacts	NA to this policy option
Key risks of technical feasibility	There are doubts as to whether the system to link the borders to central database to check biometrics will function quickly and efficiently.
Key implications of scope and phasing of policy option	PO2 and PO3 are highly dependent upon the successful implementation of this PO. In particular it is critical that: the systems function efficiently; and the biometric checks occur on exit and facilities are in place at all border crossings.

5.3 Policy Option 2 Entry/exit system

Two sub policy options have been assessed.

Sub Option 2a Entry/exit system for TCN requiring visas

A large number of illegal migrants in the EU enter the EU legally as TCNVH but subsequently overstay.

This sub option would involve the recording of the time and place of entry and exit of TCNVH crossing EU external borders, the simultaneous verification of identities using biometric information and the provision of alerts to the appropriate authorities in the event of the TCNVH overstaying. Improved information would be generated on the cross border flows of TCNVH. Such information could, for example be used operationally to detect and or review the movements of suspects. The data would also be useful in planning the use of border control and migration management resources.

Table 5.3 provides a summary assessment of this sub option.

Table 5.3 Summary assessment of sub policy option 2a entry exit system for TCN requiring visas

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	√√	<i>Significant contribution.</i> Legal entry into EU and subsequent overstaying by TCNVH would be discouraged through the increased probability that overstayers would be identified and ‘sanctions’ would be applied as necessary.
Policy objective: To generate information that would help identify and apprehend	√√√	<i>Very significant contribution to identification.</i> Information on a significant group of illegal

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

irregular and illegal migrants including overstayers	√	migrants, i.e. TCNVH overstayers would improve. <i>Some contribution to apprehending.</i> Alerts may help apprehend some TCNVH overstayers. However, the address provided at time of entry into EU and/or referee may be of little help in locating overstayer. Member States would be responsible for mobilising the capacity for apprehending and returning overstayers.
Policy objective: To facilitate bona fide crossings of EU external borders	√	<i>Some contribution.</i> Having a reliable record of the travel history of TCNVH could help to identify and facilitate bona fide travellers.
Policy objective: To generate information that would prevent terrorism and criminal activity	0	<i>No contribution.</i> Biometric identity checks and checks against SIS will already happen during visa application procedure and at entry and exit of EU in the status quo. Known terrorists or criminals may be unlikely to enter (or exit) the EU legally.
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	√	<i>Some contribution.</i> Possible small effect through the travel histories of suspects being available.
Policy objective: To improve the effective management of economic migration	√√	<i>Significant contribution</i> System would improve confidence to grant visas to temporary migrants due to the incentive to not overstay and generation of data that would allow for the analysis of profiles and patterns of overstaying.
General and specific assessment criteria		
Robustness in the light of substantive and policy changes	Benefits would not necessarily increase if passenger numbers (TCNVH) increased as there is not likely to be a systematic relationship between the number of TCNVH and overstayers (i.e. if the number of TCNVH increases, the number of overstayers does not necessarily increases as a consequence). Benefits would accrue whether or not there are adjustments in migration and visa policy.	
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)	National authorities would gain better information on the numbers and profiles of a significant group of illegal migrants, i.e. the TCNVH who are overstayers. They would need to mobilise resources to apprehend them accordingly. Enterprises applying for visas for seasonal workers may be helped, if the sub policy option improves confidence in granting visas to temporary migrants and/or enterprise can demonstrate a record of employees complying with visa requirements. In the short term, there would be small disbenefits to sectors of the economy and economic actors reliant on the supply of low skilled illegal immigrants. However, in the long term, should the immigration system	

	enable higher numbers of legal migrants to enter the EU, and the enforcement system becomes more effective in detecting and repatriating illegal immigrants, employers would be compelled to follow the rules.
Social and economic repercussions on Third Countries	<p>The repercussions would depend on visa policy, that may become more 'open' to visits and temporary economic migrants from TCN should the sub policy option have the intended effect of reducing illegal migration.</p> <p>Some small potential negative effects would occur if migration and associated remittances are reduced. However this may be offset by the presence of a higher number of legal migrants, as confidence in border controls increases.</p>
Environmental impacts	No significant effects.
Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc	<p>Potential significant impacts on data protection as data on cross-border movements of TCNVH would be recorded and retained for an agreed period of time.</p> <p>System fallback procedures and error rates would be critical as the consequences for the individual wrongly identified as an overstayer would be severe.</p> <p>The scope of access to data should be limited to migration authorities and 'motivated' law enforcement agencies (as under VIS).</p> <p>Data of TCN becoming EU citizens or their family members would need to be deleted.</p> <p>The data protection afforded to EURODAC, SISII and VIS should apply.</p>
Costs and benefits to bona fide EU citizen travellers	No significant effects
Costs and benefits to bona fide TCN travellers	<p>There should be no significant increases in the time taken and costs of crossing EU external borders of TCNVH.</p> <p>The sub policy option would be able to confirm that TCNVH had complied with the requirements of their visas.</p> <p>Some potential risk of subsequent visa applications being rejected or the TCNVH being prevented from entering the EU due to system error.</p>
Capital/investment costs (EU, MS, border authorities)	There are likely to be only small additional capital costs, the recording systems required are straightforward.
On going financial costs (EU, MS, border authorities)	Increases in ongoing resource costs could accrue if additional capacity is required to respond to the 'alerts' received of overstayers. However, apprehension rates would be anticipated to improve.
Net costs of implementation (The standard Commission grids will be elaborated)	There would be no additional revenue as a direct result of the sub policy option.
Aspects of feasibility, risk and pre conditions to achieve impact	

Need for changes in Community legislation	<p>Provisions for the systematic recording of the date of entry and exit of TCNVH would be needed. Also the VIS Regulation would require modification.</p> <p>In addition, there would be benefit in the ‘harmonisation’ of the definition of ‘overstayer’ and of ensuring that sanctions for overstaying and procedures for return do not vary markedly. This may require legislation.</p>
Necessary pre conditions, accompanying measures to achieve impacts	<p>Successful implementation of status quo, and in particular very high levels of accuracy with respect to the recording and validation through biometric identity checks of the timing of the cross border movements of TCNVH.</p> <p>The majority and preferably all cross border points should be equipped to record timing of movements of TCNVH.</p>
Key risks of technical feasibility	<p>Status quo must be successfully implemented, and errors in recoding of entry and exits need to be minimal.</p>
Key implications of scope and phasing of policy option	<p>The policy option should be introduced in parallel with VIS, trials of the accuracy of the recordings prior to tem being used as the basis for sanctions.</p>

This sub policy option would reduce *illegal migration* to the EU by: increasing the likelihood that visas are granted to and used to enter the EU by appropriate and bona fide TCN requiring visas; increasing the deterrent to overstay; and, systematically identifying overstayers.

The sub policy option would not contribute significantly to the *fight against terrorism and serious crime* although the tracking system could, subject to appropriate data protection considerations provide evidence on the movement of TCNVH who are suspects.

The sub policy option would contribute to the *improvement the management of economic migration* through: better monitoring the movement of visa holders and in particular those with multiple visas including seasonal workers; and, generating more and better information on patterns of overstaying which could be potentially used by authorities granting visas to TCN and seasonal worker permits.

Safeguards would need be put in place to limit the access to the information collected and retained. Conditions for a consultation by law enforcement authorities would be strictly limited in order to ensure that the sub policy option is proportionate and compliant with ECHR, fundamental rights and data protection considerations. In addition to ensuring the system’s capacity to update and revise (exit) data, safeguards to ensure the right to effective redress and appeal would have to be put in place for those overstayers with legitimate reasons for overstaying (e.g. missing flight, accident) or who are victims of a system error. While currently individuals have the right to ask what data is held on them, this is no good unless the reason for declining a visa or being identified as an overstayer is given as well⁵⁴.

⁵⁴ The Community Code on Visa, as proposed by the European Commission, deals with issues such as declining a visa, providing justification for this declining and right for appeal against the decision.

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

The costs of the sub policy option would be low, and providing the information generated is accurate and reliable and appropriate safeguards relating to data protection are put into place then the policy benefits outweigh the costs.

Sub Option 2b Entry/exit system for TCN not requiring visa

A proportion of illegal migrants in the EU enter the EU legally as TCN not requiring visas but subsequently overstay.

This sub option would involve the compulsory enrolment and recording of the time and place of entry and exit of TCN not requiring a visa crossing EU external borders and the provision of alerts in the event of the TCN overstaying. Enrolment could take place at an EU Member State overseas consular post or at the EU external border. ‘Sanctions’ would apply to overstayers.

Table 5.4 provides a summary assessment of the sub policy option.

Table 5.4 Summary assessment of sub option 2b entry exit system for TCN not requiring visas

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	√√	<i>Significant contribution.</i> Legal entry into EU and subsequent overstaying by TCN not requiring visas would be discouraged through the increased probability that overstayers would be identified and sanctions would be applied as necessary. However, evidence on the countries of origin of those illegal migrants that have been apprehended in the territory suggests that TCN not requiring visa are a small proportion of all illegal migrants.
Policy objective: To generate information that would help identify and apprehend irregular and illegal migrants including overstayers	√√√ √	<i>Very significant contribution to identification.</i> Information on a significant group of illegal migrants, i.e. TCN not requiring visa overstayers would improve. <i>Some contribution to apprehending.</i> Alerts may help apprehend some TCN not requiring visas. Member States would be responsible for mobilising the capacity for apprehending and returning overstayers.
Policy objective: To facilitate bona fide crossings of EU external borders	–	<i>Negative impact.</i> TCN not requiring visa would be required to enrol on the system. This would have time and cost implications for them. If additional border control resources were not available for the enrolment of TCN not requiring visa there could be negative impacts on the bona fide crossings of other passengers.
Policy objective: To generate	√	<i>Some contribution.</i> Biometric identity checks would

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information that would prevent terrorism and criminal activity		be applied to TCN not requiring visa who might otherwise not be subject to them. These might be used for identification purposes as in status quo for TCNVH. However, known terrorists or criminals may be unlikely to enter (or exit) the EU legally.
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	√	<i>Some contribution.</i> Possible small effect through the travel histories of TCN not requiring visas suspects being available.
Policy objective: To improve the effective management of economic migration	√	<i>Some contribution</i> System would improve confidence to grant nations exemption from visas due to the incentive to not overstay and generate data that would allow for the analysis of profiles and patterns of overstaying.
General and specific assessment criteria		
Robustness in the light of substantive and policy changes		Benefits would not necessarily increase if passenger numbers (TCN not requiring visas) increased as they is not likely to be a systematic relationship between the number of TCN not requiring visas and overstayers (i.e. if the number of TCN increases, the number of overstayers does not necessarily increases as a direct consequence). Benefits would accrue whether or not there are adjustments in migration and visa policy.
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)		National authorities would gain better information on the numbers and profiles of a significant group of illegal migrants, i.e. the TCN not requiring visas who are overstayers. They would need to mobilise resources to apprehend them accordingly. In the short term, there would be small disbenefits to sectors of the economy and economic actors reliant on the supply of low skilled illegal immigrants. However, in the long term, should the immigration system enable higher numbers of legal migrants to enter the EU, and the enforcement system becomes more effective in detecting and repatriating illegal immigrants, employers would be compelled to follow the rules.
Social and economic repercussions on Third Countries		Some third countries may 'retaliate' given that their citizens would be required to enrol and face potential delays at borders. The repercussions would depend on visa policy, that may become more 'open' to exempting some third countries from visa requirements should the sub policy option have the intended effect of reducing illegal migration. Some small potential negative effects would occur if migration and associated remittances are reduced. However this may be offset by the presence of a higher number of legal migrants, as the confidence in border controls system increases.
Environmental impacts		No significant effects.
Impacts on fundamental rights:		Potential significant impacts on data protection as data on cross-border

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

<p>particularly privacy, data protection, presumption of innocence, fair trial etc</p>	<p>movements of TCN not requiring visas would be recorded and retained for an agreed period.</p> <p>System fallback procedures and error rates would be critical, as the consequences for the individual wrongly identified as an overstayer would be severe.</p>
<p>Costs and benefits to bona fide EU citizen travellers</p>	<p>Potential negative effects through delays if additional resources not available for the enrolment of TCN not requiring visas.</p>
<p>Costs and benefits to bona fide TCN travellers</p>	<p>There would be significant increases in the time taken and costs of crossing EU external borders of TCN not requiring visas. A minimum average time of 10 minutes is estimated to be required for the enrolment⁵⁵ of each of the circa 25 million (different) TCN not requiring visas that enter the EU each year. (In the order of 30 million trips to the EU are made by TCN not requiring visas, some are repeat visits by the same individuals). Balancing the supply of enrolment border control staff with the pattern of arrivals of TCN at border crossing could be extremely difficult and long queues and serious delays could occur at bottlenecks.</p> <p>The sub policy option would be able to confirm that TCN not requiring visas had complied with the requirements of their entry to the EU.</p> <p>Some potential risk of subsequent TCN not requiring visas being rejected or the TCN not requiring visa being prevented from entering the EU due to system error.</p>
<p>Capital/investment costs (EU, MS, border authorities)</p>	<p>There are likely to be significant additional capital costs as the enrolment process would involve the taking of biometric information.</p>
<p>On going financial costs (EU, MS, border authorities)</p>	<p>The enrolment of TCN not requiring visas would need to be supervised by EU migration/border control officials. It is reasonable to assume that one official could supervise and process 8000 enrolments per annum. In which case in the order of 3100 FTE additional border control staff would be required. Furthermore, all border crossings would need to be resourced in a manner that allowed for enrolment even if demand was likely to be low. However, there would be potential savings in border control resources as the biometric information would allow for automated systems.</p> <p>Increases in ongoing resource costs could accrue if additional capacity is required to respond to the 'alerts' received of overstayers. However, apprehension rates would be anticipated to improve.</p>
<p>Net costs of implementation (The standard Commission grids will be elaborated)</p>	<p>There would be no additional revenue as a direct result of the sub policy option.</p>

⁵⁵ In practice the average enrolment time might less than this. Fingerprints and facial biometrics can be taken in less time than this (taking Iris biometrics requires more time) and the Registered Traveller case studies in Annex 2 indicated that between 4 and 6 minutes might be required. However, there would be merit in running checks during the enrolment process and for one reason or another some passengers may not be able to provide reliable biometrics which would lead to the requirement for alternative mechanisms to be applied.

Aspects of feasibility, risk and pre conditions to achieve impact	
Need for changes in Community legislation	<p>The sub policy option would involve a significant change to existing border control procedures requiring TCN not requiring visas to enrol and recording of their date of entry and exit. New Community legislation would be required.</p> <p>There would be benefit in the 'harmonisation' of the definition of 'overstayer' and of ensuring that sanctions for overstaying and procedures for return do not vary markedly between Member States. This may also require Community legislation.</p>
Necessary pre conditions, accompanying measures to achieve impacts	<p>Successful implementation of status quo, and in particular very high levels of accuracy with respect to the recording and validation through biometric identity checks of the timing of the cross border movements of TCN.</p> <p>The majority and preferably all cross border points should be equipped to enrol and record the timing of movements of TCN not requiring visas.</p>
Key risks of technical feasibility	Status quo must be successfully implemented, and errors in recoding of entry exits need to be minimal.
Key implications of scope and phasing of policy option	The policy option should be introduced in parallel with VIS, trials of the accuracy of the recordings prior to them being used as the basis for sanctions should take place.

This sub policy option would reduce *illegal migration* to the EU by: increasing the deterrent of TCN not requiring visas to overstay; and, systematically identifying overstayers.

The sub policy option would not contribute significantly to the *fight against terrorism and serious crime* although the tracking system could provide evidence on the movement of TCN non requiring visas who are suspects.

The sub option could have serious negative impacts on the time taken by bona fide travellers to cross borders.

The sub policy option would contribute to the improvement the management of economic migration through: better monitoring the movement of TCN not requiring visas and, generating more and better information on patterns of overstaying which could be potentially used by authorities granting work permits to TCN not requiring visas.

Safeguards would need be put in place to limit the access to the information collected and retained. Conditions for a consultation by law enforcement authorities would be strictly limited in order to ensure that the sub policy option is proportionate and compliant with ECHR, fundamental rights and data protection considerations. In addition to ensuring the system's capacity to update and revise (exit) data, safeguards to ensure the right to effective redress and appeal would have to be put in place for those overstayers with legitimate reasons for overstaying (e.g. missing flight, accident) or who are victims of a system error. While currently individuals have the right to ask what data

is held on them, this would be insufficient unless the reason for being identified as an overstayer was given as well⁵⁶.

The costs of the sub policy option would be high both to the EU (via Member States) to resource the increased controls and to the TCN travellers affected. Even if the information generated was accurate and reliable and appropriate safeguards relating to data protection are put into place then the policy benefits may not outweigh the costs.

The circumstances in which the sub policy option would be most beneficial are if some countries whose citizens currently have to have visas to enter the EU were exempted because it was deemed that provisions of this sub option were sufficient. This is because both the costs to the EU and the TCN would be less within the provisions of this enrolment system compared with the costs of being a visa holder.

By way of illustration it is estimated that the provision of this sub policy option would impose at a minimum 10 minute 'cost' on a traveller, assuming no queues. However, if sufficient enrolment border guard staff and facilities for taking photos and finger prints were not in place to handle arrivals the real delays could be much longer⁵⁷. By contrast obtaining a visa is likely to require on average a full days cost in addition to travel costs to visit the visa consulate and the financial costs of the visa. An indicative assumption of a cost of at least 200 euro per passenger to acquire a visa seems reasonable⁵⁸.

In the same vein it is estimated that one FTE official could supervise 8000 enrolments. It is likely that the average time of an official to process a visa is in the order of ten times greater than that likely to be required for an enrolment⁵⁹. However, in the case of a visa the cost of this time is offset by the charges made and hence in large part borne by the TCN.

In effect this sub policy option would make most sense if it was accompanied by changes in visa policy that led to the citizens of some third countries not requiring visa and there being concomitant savings in resources at visa consulates. The sub option would not apply to persons enjoying the right of free movement.

5.4 Policy option 3 Measures to facilitate cross-border flows (Registered Traveller Programme and Automated Border Control)

Three sub policy options have been assessed.

⁵⁶ The Community Code on Visa, as proposed by the European Commission, deals with issues such as declining a visa, providing justification for this declining and right for appeal against the decision.

⁵⁷ There might also be difficulties in physically modernising arrivals halls in transport terminals in order to accommodate multiple enrolment facilities.

⁵⁸ This presumes that acquiring visas under VIS will require visits to visas consulates to give biometric information.

⁵⁹ Information from the UK indicated that 2830 visa consulate staff issued 2.2 million visas per annum, that is an average of 780 each.

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

Sub option 3a A Registered Traveller Programme available to TCN

The status quo and PO2, particularly PO2b could increase the time taken to cross borders by TCN. A large minority of TCN are regular travellers to and from the EU with important economic and social ties to the EU. There would be benefit in focussing border control resources on the non bona fide travellers.

Table 5.5 provides a summary assessment of the sub policy option.

Table 5.5 Summary assessment of policy option 3a a Registered Travellers Programme for TCN

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	½	<i>Very small contribution.</i> May lead to small efficiency improvements and redeployment of human and financial resources to focus on detecting and reducing illegal migration.
Policy objective: To generate information that would help identify and apprehend irregular and illegal migrants including over-stayers	0	<i>No contribution.</i> No improvement would occur over and above that accruing from PO 2 where movements would be recorded.
Policy objective: To facilitate bona fide crossings of EU external borders	√√	<i>Significant contribution.</i> However, the improvements would only accrue to Registered Travellers who would be a minority of TCN travellers. Some checks would still have to be carried out (e.g random checks, second line checks, pre screening of passengers and checks against watch lists ⁶⁰).
Policy objective: To generate information that would prevent terrorism and criminal activity	–	<i>Potential small negative contribution.</i> Unknown and prospective criminals and terrorists may seek to exploit the Registered Traveller Programme.
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	0	<i>No contribution.</i> No improvement would occur over and above that accruing from PO 2 where movements would be recorded.
Policy objective: To improve the effective management of economic migration	0	<i>No contribution.</i>

⁶⁰ There would also be benefit in checks being made against the watch lists of the country of origin as well as those of the EU and Member states.

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

General and specific assessment criteria	
Robustness in the light of substantive and policy changes	The sub policy option could be adjusted within scenarios involving increases in travel and changes in migration and border control policy.
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)	Positive effects on business and trade are likely.
Social and economic repercussions on Third Countries	Positive effects on business and trade are likely. Small positive economic effect via traveller time savings.
Environmental impacts	Minor, additional channels may need to be built at certain border crossings.
Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc	No impacts additional to the issues described under Policy Option 3 except that provision may be required to provide TCN applicants with the reasons why they have not been accepted onto the programme.
Costs and benefits to bona fide EU citizen travellers	No effect.
Costs and benefits to bona fide TCN travellers	Benefits due to reduced or limited waiting times at border crossing points.
Capital/investment costs (EU, MS, border authorities)	Resources would be required to create separate channels for Registered Travellers, this would not necessarily need to take place at all or indeed all border crossings.
On going financial costs (EU, MS, border authorities)	Resources would be required to vet applicants both at visa consulates and at EU border crossings. Some potential resource savings as checks on registered travellers would subsequently be lighter than on other TCN. Resource costs would be offset by charges for participation.
Net costs of implementation (The standard Commission grids will be elaborated)	
Aspects of feasibility, risk and pre conditions to achieve impact	
Need for changes in Community legislation	The criteria used to process and vet applicants, charges, and arrangements for facilitating the border crossings of registered travellers would need to be consistent across the EU (Schengen) borders. This could be achieved through amendments to the Schengen borders code and through other legal instruments.
Necessary pre conditions, accompanying measures to achieve impacts	The rationale for this policy option would be strengthened by the application of the entry exit system to TCNVH (Policy option 2a) and in particular by the enrolment of TCN not requiring visas to the entry exit system (Policy Option 2b).

Key risks of technical feasibility	Depends on the successful implementation of status quo
Key implications of scope and phasing of policy option	The sub policy option should be implemented in parallel with the introduction of VIS and sub policy options 2a and 2b.

It is not anticipated that this policy option would directly reduce *illegal migration* to the EU. However, it could generate some minor efficiency improvements that could contribute to this.

It is not envisaged that the sub policy option could contribute to the *fight against terrorism and serious crime* except as in so far that it meant that security and border control resources could be more effectively deployed (e.g. border authorities would be able to focus checks and controls on other travellers).

It is envisaged that the sub policy option would *facilitate the bona fide crossings* of EU external borders by the use of biometric recognition and reducing the time for border crossing of Registered Travellers.

The main benefits of the sub policy option would accrue to the registered travellers themselves and through the facilitation of related economic activities. In this case the additional administrative costs could be offset by charges made to these travellers.

Sub option 3b A harmonised Registered Traveller Programme available to EU citizens

Citizens and residents of the EU27 make in the order of 80 million trips per annum to destinations outside of the EU. A large minority of these are made by bona fide and regular travellers. A harmonised Registered Traveller Programme could facilitate travel for bona fide passengers and free up border control resources to concentrate on other higher risk passengers.

Table 5.6 Summary assessment of sub option 3b A harmonised Registered Traveller Programme available to EU citizens

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	½	<i>Very small contribution.</i> May lead to small efficiency improvements and redeployment of human and financial resources to focus on detecting and reducing illegal migration.
Policy objective: To generate information that would help identify and apprehend irregular and illegal migrants including over-stayers	0	<i>No contribution.</i>
Policy objective: To facilitate bona fide crossings of EU external borders	√√	<i>Significant contribution.</i> Benefits would only accrue to Registered Travellers. Security checks would still have to be carried out.
Policy objective: To generate information that would prevent	–	<i>Potentially small negative contribution.</i> Prospective and unknown criminals or terrorists

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

terrorism and criminal activity		may seek to exploit the facility.
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	0	<i>No contribution.</i> (Movements of Registered Travellers would not be recorded).
Policy objective: To improve the effective management of economic migration	0	<i>No contribution.</i>
General and specific assessment criteria		
Robustness in the light of substantive and policy changes	The sub policy option would be able to adjust to scenarios involving increases in travel.	
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)	Possible small positive effects on business and trade Small positive economic effect via traveller time savings.	
Social and economic repercussions on Third Countries	Possible small positive effects on business and trade	
Environmental impacts	Additional channels may need to be built at border crossings	
Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc	<p>There is a potential issue of discrimination (e.g. assuming that people that do not register or are not accepted are 'suspicious'), depending on the criteria applied (and their interpretation) to register or not EU citizens on the programme.</p> <p>Those not registered would maintain the exact same rights to enter the EU freely and they may consider that this right is reduced by the RTP.</p> <p>Data provided under the vetting process would need to be subject to data protection provisions. Systems of appeal for refusal of applicants would be required.</p>	
Costs and benefits to bona fide EU citizen travellers	Potential travel time savings to registered travellers.	
Costs and benefits to bona fide TCN travellers	No benefits or costs	
Capital/investment costs (EU, MS, border authorities)	Separate channels would be required, particularly at major bottle necks. The hardware and resourcing of these channels would need to be consistent at all EU border crossings. Given that there would be an EU legal requirement to provide facilities there would be a strong case for the EU to fund the investment so as to ensure burden sharing.	
On going financial costs (EU, MS, border authorities)	The main costs would be in processing applicants for the Registered traveller programme.	

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

Net costs of implementation	
Aspects of feasibility, risk and pre conditions to achieve impact	
Need for changes in Community legislation	As the Registered Traveller Programme would be harmonised in terms of: application criteria, hardware and resourcing requirements and because it would create different 'types' of entry and exit checks, then new legislation would be required.
Necessary pre conditions, accompanying measures to achieve impacts	The benefits that would accrue would largely depend upon the disadvantages and delays to EU passengers who are not registered on the Programme. If conditions for unregistered passengers are poor then the benefits for registered passengers are potentially greater.
Key risks of technical feasibility	The sub policy option does not involve significant technological risks as it is assumed that the automated recognition technology would be the same as that for all e-passports.
Key implications of scope and phasing of policy option	The Registered Traveller Programme in this policy option would make use of e-passports for automated recognition. It would be reasonable to wait until a significant proportion of EU travellers are in possession of such passports and until reliable systems are in place to make use of them for automated recognition. Otherwise existing passengers wishing to be registered would be required to have e-passports. The sub policy option could be implemented independently of sub policy options 2a and 2b on the entry/exit system.

It is not anticipated that this policy option would directly reduce *illegal migration* to the EU. However, it could generate some minor efficiency improvements that could contribute to this.

It is not envisaged that the policy option could contribute to the *fight against terrorism and serious crime* except as in so far that it meant that security and border control resources could be more effectively deployed (e.g. border authorities would be able to focus checks and controls on other travellers).

It is envisaged that the policy option would *facilitate the bona fide crossings* of EU external borders by the use of biometric recognition and reducing the time for border crossing of EU citizen/resident registered travellers.

There are significant drawbacks with this sub policy option:

- Firstly, the benefits that would accrue to Registered Travellers would stem mainly from the delays and inconvenience that would otherwise be experienced by non registered EU travellers⁶¹. Given that most entries and exits to the EU occur at airports and sea ports where the passenger flows are predictable, that the advent of e-passports should increase the potential for improving passenger flows in general and that border formalities for EU passengers are not currently the main sources of delay at EU borders (time taken for security, customs

⁶¹ The benefits to Registered Travellers are also likely to be greater if they are comparatively small in number. Some existing Registered Traveller schemes mainly generate benefits through the queues of reserved channels being shorter rather than the time taken to process documents and check identities being less.

searches, checking in and retrieving baggage, and boarding disembarking are usually much more significant) then the rationale for the sub policy option is that EU borders are otherwise poorly managed.

- Secondly, there would need to be a harmonised system so that a registered EU traveller would be able to use 'priority channels' at all (or at least many) of the EU external border crossings. There is currently not a single EU border service and such a harmonised approach could be difficult to realise in practice. Furthermore, given that the passengers most likely to benefit from being Registered on the programme and likely to be frequent users of only a small number of border crossings (for example, their nearest international airport) then the benefits to them of having a harmonised approach at EU are likely to be small⁶².
- Thirdly, all EU citizens have the same rights to enter and exit the EU. The sub policy option would arguably be a source of discrimination conferring benefits to those that have registered which would be difficult to justify from the perspective of fundamental rights. In these circumstances it would be beneficial for there to be a public debate (for example, a green paper and public hearing) on the merits of the case.

In the light of these drawbacks this sub policy option is not included in the preferred option.

Sub Option 3c Minimum standards are established for Registered Traveller schemes and Automated Border Control for EU citizens

A number of Registered Traveller schemes already exist in the EU. This sub option would ensure that the schemes developed at national level and or for particular external border crossing such as major airports conformed to minimum standards.

Table 5.7 Summary assessment of sub option 3c minimum standards are established for Registered Traveller schemes and ABC for EU citizens

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	½	<i>Very small contribution. May lead to small efficiency improvements and redeployment of human and financial resources to focus on detecting and reducing illegal migration.</i>
Policy objective: To generate information that would help identify and apprehend irregular and illegal migrants including	0	<i>No contribution</i>

⁶² Assuming a business traveller has one place of residence in the EU and makes say 10 return trips to 2-3 different third countries then it is reasonable to assume that the majority of their EU border crossings are likely to be from the same international hub airport.

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

over-stayers		
Policy objective: To facilitate bona fide crossings of EU external borders	√	<i>Some contribution.</i> Benefits would already accrue to Registered Travellers. Security checks would still have to be carried out. The policy option could enable introduction of new schemes.
Policy objective: To generate information that would prevent terrorism and criminal activity	½	<i>Potentially small positive contribution.</i> Problem of prospective and unknown criminals or terrorists that may seek to exploit the scheme could be reduced by minimum standards.
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	0	<i>No contribution</i>
Policy objective: To improve the effective management of economic migration	0	<i>No contribution</i>
General and specific assessment criteria		
Robustness in the light of substantive and policy changes	The sub policy option would be able to adjust to scenarios involving increases in travel. It would also be able to take account of the increase in number at variety of Registered Traveller Schemes and ABCs that could be implemented including ABC making use of e.passports.	
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)	<p>Minor positive effects on business and trade, however the sub policy option is not anticipated to increase the prevalence of Registered Traveller schemes</p> <p>Minor positive economic effects via traveller time savings should the minimum standards improve efficiency of operation of the schemes.</p>	
Social and economic repercussions on Third Countries	Minor positive effects on business and trade	
Environmental impacts	No effects unless minimum standards referred to environmental considerations.	
Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc	The minimum standards would potentially strengthen aspects of the application and vetting procedure and data protection.	
Costs and benefits to bona fide EU citizen travellers	Potentially small positive effect.	
Costs and benefits to bona fide TCN travellers	None.	
Capital/investment costs (EU, MS,	It is unlikely that the minimum standards would lead to significant increases in capital costs, indeed the standards could be based on	

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

border authorities)	schemes which are judged to have been cost effective.
On going financial costs (EU, MS, border authorities)	It is possible that the minimum standards could influence the ongoing costs of Registered Traveller schemes through for example requiring minimum levels of random and secondary checks that are higher than those currently applied. However, there is potential to recoup resources from those passengers who are registered.
Net costs of implementation (The standard Commission grids will be elaborated)	There would be some costs involved in the identification and drafting of minimum standards and creating the relevant legislation. Resources would also be required for enforcement. However, the number of schemes is likely to be small.
Aspects of feasibility, risk and pre conditions to achieve impact	
Need for changes in Community legislation	This sub policy option would require the identification of minimum standards and their inclusion in appropriate legislation.
Necessary pre conditions, accompanying measures to achieve impacts	This sub policy option is not reliant on other policy options.
Key risks of technical feasibility	There are no significant technical risks.
Key implications of scope and phasing of policy option	The sub policy option could be introduced immediately.

It is not anticipated that this sub policy option would directly reduce *illegal migration* to the EU. However, it could generate some efficiency improvements that could contribute to this. For example, the introduction ABCs systems which might be encouraged to a limited extent by this policy option, could enable the freeing up of border guard resources to focus on reducing illegal migration.

It is not envisaged that the sub policy option could contribute to the *fight against terrorism and serious crime* except as in so far that the security standards of existing Registered Traveller schemes would meet minimum (or higher) standards.

It is envisaged that the policy option would *facilitate the bona fide crossings* of EU external borders and reduce the time for border crossing of Registered Travellers through ensuring that the technical and resourcing standards of existing schemes would meet minimum (or higher) standards.

The costs of this policy option would be low and it could be implemented in the short term. Its feasibility is not dependent upon the status quo or other policy options.

The potential drawbacks of this policy option are as follows:

- Firstly, there is no evidence to suggest that the existing Registered Traveller schemes in the EU are 'sub standard', they have not been cited as security risks. Their current limited incidence and low scale of participation probably reflects the fairly limited benefits that accrue to registered travellers. The entry and exit of non-registered EU citizens to the EU is not heavily constrained by border controls.
- Secondly, the advent of e-passports, improved automatic recognition technologies and other developments provides the opportunity for border for EU

citizens to further improve thus potentially reducing the benefits of Registered Traveller schemes.

- Thirdly, defining, monitoring and enforcing effective 'minimum standards' could be problematic. Border controls are ultimately dependent on the skills and judgments of those that implement them, which are difficult to measure, whilst minimum standards tend to focus on what is easy to measure.

However, on balance this sub policy option is included in the preferred option.

5.5 Policy option 4 Obligation on TCN to confirm their return to country of origin or Bond/tax scheme for TCN migrants

Two sub policy options have been assessed

Sub option 4a TCN requiring visas are obliged to provide proof of their return to country of origin

This sub policy option would provide both similar information and incentives, via the imposition of sanctions to those provided by an entry/exit system for TCNVH.

Table 5.7 provides a summary assessment of the sub policy option.

Table 5.7 Summary assessment of sub policy option 4a TCN requiring visas provide proof of their return to country of origin

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – To √√√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	√	<i>Some contribution.</i> Overstaying would be identified, albeit in a less timely manner than under the entry exit sub policy option 2a. Indeed individuals would probably have gone to ground/moved on by the time it was known they had not reported.
Policy objective: To generate information that would help identify and apprehend irregular and illegal migrants including overstayers	√	<i>Some contribution.</i> Some information on the identity of overstayers would accrue. However there would be little or no contribution to apprehending, as information is likely to be slow, out of date and unreliable
Policy objective: To facilitate bona fide crossings of EU external borders	0	<i>No contribution.</i>
Policy objective: To generate information that would prevent terrorism and criminal activity	0	<i>No contribution.</i> Known terrorists or criminals would be unlikely to enter (or exit) the EU legally and would not bother to verify their departure from the EU in

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

		due time.
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	0	<i>No contribution.</i> Known terrorists or criminals would be unlikely to enter (or exit) the EU legally and would not bother to verify their departure from the EU in due time.
Policy objective: To improve the effective management of economic migration	√√	<i>Significant contribution.</i> System would improve confidence to grant visas to temporary migrants due to the incentive to not overstay and generation of data that would allow for the analysis of profiles and patterns of overstaying.
General and specific assessment criteria		
Robustness in the light of substantive and policy changes	Benefits would accrue whether or not there are adjustments in migration and visa policy.	
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)	Enterprises applying for visas for seasonal workers may be helped, if the sub policy option improves confidence in granting visas to temporary migrants and/or because enterprise can demonstrate a record of employees complying with visa requirements.	
Social and economic repercussions on Third Countries	Depends on visa policy. Some potential negative effects if migration and remittances are reduced, or positive effects if system increases confidence to grant visas to temporary economic migrants.	
Environmental impacts	No effect.	
Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc	As in sub policy options 2a and 2b there would have to be means to challenge a judgment of having overstayed (e.g. when forced to overstay or when consulate did not record data properly).	
Costs and benefits to bona fide EU citizen travellers	None	
Costs and benefits to bona fide TCN travellers	<p>TCNVH would incur considerable addition costs as they would need to revisit the visa granting consulate. In the order of 8 million registrations would take place per annum. If it is reasonable to assume that the average time and economic costs to the travellers is 50 euro for each registration then the economic costs to the TCN travellers would be 400 million euro per annum.</p> <p>There is some likelihood that they would forget to do so, not realising its significance, which would affect their likelihood of subsequently entering the EU.</p>	
Capital/investment costs (EU, MS, border authorities)	No significant costs	
On going financial costs (EU, MS,	Additional costs at consulates to deal with TCNVH who are	

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

border authorities)	registering their return to their country of origin. In the order of 10 million Schengen visas are granted each year. The majority of visa holders would need to confirm their return to country of origin. If 8 million did so each year and the it was assumed that one FTE consular officer could deal with 10,000 registrations per annum then an addition 800 addition FTE consular staff would be required.
Net costs of implementation	No income would accrue from this sub policy option
Aspects of feasibility, risk and pre conditions to achieve impact	
Need for changes in Community legislation	There would need to be changes to the conditions of granting visas
Necessary pre conditions, accompanying measures to achieve impacts	The sub policy option could be implemented without the successful implementation of the status quo. However, The information on confirmation of return would need to be held on database and subject to data protection.
Key risks of technical feasibility	Very low.
Key implications of scope and phasing of policy option	The sub policy option could be implemented in the short term

This sub policy option would reduce *illegal migration* to the EU by: increasing the likelihood that visas are granted to and used to enter the EU by appropriate and bona fide TCN requiring visas; increasing the deterrent to overstaying; and, systematically identifying overstayers.

The sub policy option would not contribute significantly to the *fight against terrorism and serious crime* although it could provide evidence on the movement of TCNVH who are suspects.

The sub policy option would contribute to the improvement the management of economic migration through: better monitoring the movement of visa holders and in particular those with multiple visas including seasonal workers; and, generating more and better information on patterns of overstaying which could be potentially used by authorities granting visas to TCN and seasonal worker permits.

Safeguards would need to be put in place to limit the access to the information collected and retained. Conditions for a consultation by law enforcement authorities would be strictly limited in order to ensure that the sub policy option is proportionate and compliant with ECHR, fundamental rights and data protection considerations. In addition to ensuring the system's capacity to update and revise (exit) data, safeguards to ensure the right to effective redress and appeal would have to be put in place for those overstayers with legitimate reasons for overstaying (e.g. missing flight, accident). While currently individuals have the right to ask what data is held on them, this is not satisfactory unless the reason for declining a visa or being identified as an overstayer was given as well⁶³.

⁶³ The Community Code on Visa, as proposed by the European Commission, deals with issues such as declining a visa, providing justification for this declining and right for appeal against the decision.

The costs of the sub policy option would be high both to the TCHVH and to the visa consulates. The benefits are likely to be less than for sub policy 2a with which it is directly comparable because the information on exit would be less reliable and timely. Whilst the technical risks are lower than for sub policy option 2a and the option could be introduced more readily the costs are much higher. Therefore this sub policy option is not included in the preferred option.

Sub option 4b: A system of bonds for those requiring visas to visit the EU

The bonds would potentially apply to all of the circa 11.5 million visas granted to TCN per annum. The tariffs for the bonds would be set so as to optimise the incentive to conform to the requirements of the visa, that is not to overstay, whilst minimising the imposition of constraints and deterrents to travel to the EU of bona fide visitors.

Table 5.8 provides a summary assessment of the sub policy option.

Table 5.8 Summary assessment of sub policy option 4b: a system of bonds for TCN requiring visas

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	√√	<i>Significant contribution.</i> There would be a strong financial incentive to enter and exit the EU legally, within the provisions of the visa and not to overstay.
Policy objective: To generate information that would help identify and apprehend irregular and illegal migrants including overstayers	√√√ √√	<i>Very significant contribution to identification.</i> Information on a significant group of illegal migrants, i.e. TCNVH overstayers would improve. <i>Significant contribution to apprehending.</i> The non claiming of bonds may help apprehend some TCNVH overstayers. Data on bank accounts could supplement the address and/or name of referee provided at time of visa application. Member States would be responsible for mobilising the capacity for apprehending and returning overstayers.
Policy objective: To facilitate bona fide crossings of EU external borders	0	<i>No contribution.</i>
Policy objective: To generate information that would prevent terrorism and criminal activity	√	<i>Some contribution.</i> If the sub policy option was implemented as a component of wider development policies it could have the effect of decreasing the demand from ‘desperate’ TNC to pay smugglers and organised criminals for passage to the EU as there would be some additional managed opportunities for temporary work within the EU for relatively low skilled workers from some countries.
Policy objective: To generate	√	<i>Some contribution.</i> If the sub option meant that those

information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects		that would otherwise consider paying smugglers and organised criminals for passage to the EU had the opportunity to travel (and work) legitimately, they could be a source of intelligence on illicit activity. No effects with respect to terrorism are likely.
Policy objective: To improve the effective management of economic migration	√√√	<p><i>Very significant contribution</i> Potentially the ‘bond’ mechanism could assist EU governments to balance demand for and supply of in particular temporary and seasonal TCN migrant workers through increasing confidence that were visas granted their requirements would be respected.</p> <p>Through partnerships with countries of origin economic migration could potentially be better managed in relation to the needs of developing countries.</p> <p>Smugglers and traffickers, who currently undermine / subvert EU migration policies, may lose some / a significant part of their potential clients.</p>
General and specific assessment criteria		
Robustness in the light of substantive and policy changes		The benefits of the bond scheme would be greatest under a scenario of an increase in demand for TCN temporary workers in the EU and improvements in the economic conditions in the countries of origin of illegal migrants. The size of bonds would need to be adjusted depending on the demand for (temporary) labour in EU countries and estimates of the risks of temporary migrants of different types becoming overstayers.
Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)		<p>Potentially EU enterprises would benefit from the more effective management of economic migration, as applications for seasonal workers might have a higher level of success. This could stimulate economic growth and competitiveness.</p> <p>If the sub policy option significantly reduced people smuggling then there would be a reduction in human and financial resources required to prevent and deal with negative consequences.</p> <p>There could be negative impacts on tourism and visits to the EU as not all travellers would be able to finance the bonds.</p> <p>There could be retaliatory action with third countries imposing bonds on EU travellers.</p>
Social and economic repercussions on Third Countries		<p>Positive effects would accrue if the money normally usurped by smugglers and traffickers was mobilised to pay the bond and eventually returned to the individual / family or community that raised it.</p> <p>If the sub policy option led to increases in legitimate short term migration there would be positive effects due to remittances transferred back to third countries and these transfers taking place through formal channels. Monies earned in the EU could also be used when individual returned to work and/or set up a business in country of origin.</p> <p>Governments of third countries could, through financing bonds, enable</p>

	individuals to work in the EU and then return to invest in their country of origin having acquired resources and skills.
Environmental impacts	None
Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc	There may be issues associated with the provision of bank account details by the TCNVH that are required to provide bonds.
Costs and benefits to bona fide EU citizen travellers	None.
Costs and benefits to bona fide TCN travellers	<p>There would be significant costs for TCN requiring visas to travel to the EU for tourism or to visit family as well as those intending to work, as they would be required to finance the bonds.</p> <p>Benefits due to proof of having complied with immigration rules. Increasing the likelihood that TCN migrants will be granted visas.</p> <p>There would be significant costs for TCN requiring visas to travel to EU for tourism or to visit family as well as those intending to work as they would be required to finance the bonds.</p> <p>In order to verify that they had returned to their country of origin TCNVH would need to report to the visa consulate on return. This would impose costs similar to those envisaged under sub policy option 4a, ie 400 million euro per annum. However, if policy option 2a were introduced these costs would not be incurred as verification would be provided by an entry exit system.</p>
Capital/investment costs (EU, MS, border authorities)	A central system to manage the bonds would be needed to be set up.
On going financial costs (EU, MS, border authorities)	<p>There would need to be additional consular staff to verify that TCNVH had returned to their country of origin and could thus be reimbursed their bonds. As with sub policy option 4a it is estimated that an additional 800FTE staff would be required. However if sub policy option 2a were introduced these additional staff would not be required.</p> <p>Some of the costs of the sub policy option could be offset by the interest accruing on the bonds and the bonds foregone by those that overstayed. For example if the average bond was set at 2000 euro for 11.5 million visas granted, the bonds were held for on average 3 months and 1% of bonds were foregone, then assuming an average 5% interest rate then over 500 million euro could accrue.</p>
Net costs of implementation (The standard Commission grids will be elaborated)	Could be considered in a feasibility study
Aspects of feasibility, risk and pre conditions to achieve impact	
Need for changes in Community legislation	It is likely that legislation would be required in order to implement this sub policy option.

Necessary pre conditions, accompanying measures to achieve impacts	There would need to be strong consensus support for the sub policy issues from those concerned with the management of economic migration and international development. Support from third countries would also be highly desirable. The policy option would be more cost effective if the policy option 2a was implemented.
Key risks of technical feasibility	There are no particular technical risks.
Key implications of scope and phasing of policy option	Although technically possible to develop the policy option immediately, it would be more cost effective to wait until the successful implementation of the entry exit system, ie policy option 2a.

It is anticipated that this sub policy option could reduce *illegal migration* to the EU by potentially: providing a legitimate route to the EU for some of those that currently pay smugglers or otherwise enter the EU illegally (often at considerable expense and risk); increasing the likelihood that visas are granted to and used to enter the EU by appropriate and bona fide TCN with legitimate objectives; increasing the deterrent to overstaying through retention of bonds and further sanctions restricting entry to the EU; and, systematically identifying overstayers. It is reasonable to assume that those that enter the EU with permission to work, and enter legal employment, will have little propensity to later 'go underground' and should they choose to, would be easy to detect. However, some abuse of the system and overstaying would undoubtedly still occur. The ability to provide a bond would not confer the right to a visa. The order of magnitude of the effect on illegal migration would vary according to the migration policy adopted.

It is envisaged that the sub policy option could contribute to the *fight against terrorism and serious crime* through: decreasing the demand from 'desperate' TNC to pay smugglers and organised criminals for passage to the EU. Anecdotal evidence suggests that the sums paid for illegal passage to the EU are very high, and disproportionate to the risk and economic benefits that might accrue to the payee. Should the payment of a bond encourage EU Member States to accept more temporary economic migrants that would otherwise have illegally entered the EU then some reduction in smuggling could accrue.

It is not envisaged that the sub policy option would *facilitate the bona fide crossings* of EU external borders.

It is envisaged that the sub policy option would improve the *management of economic migration* through: using the 'bond' mechanism to regulate supply of TCN migrants; and, better monitoring the movement of those with multiple visas.

The costs of the bond could however impact upon TCN wishing to come to the EU for tourism and to visit friends and relatives. TCHVH would, in the absence of the implementation of an entry exit system also have to verify their return to their country of origin prior to being reimbursed the bond. This would be expensive for the TCN and would require additional visa consulate resources in much the same way as sub policy option 4a.

Given that the policy option is likely to be politically sensitive, is only justifiable in the framework of wider migration and international development policy and would be considerably less costly if implemented in conjunction with an entry exit system, this sub option is not put forward as part of the preferred option.

5.6 Comparative assessment

As indicated in Table 5.10 policy options 2a and 2b and 4b are likely to be similarly effective in *reducing illegal migration*. Their impacts would be greater than the status quo which is itself expected to reduce illegal migration to some extent. However, it would be unrealistic to expect that the policy options would eliminate illegal migration. The push and pull factors that lead to illegal migration will remain strong and some amongst those who enter the EU legally will opt to overstay irrespective of whether sanctions may result. Indeed the prospect that leaving after their 'due date' could limit their ability to re-enter the EU legally could have a perverse effect of prompting some to stay longer.

Policy options 2a and 2b and 4b are more likely to be effective in identifying overstayers and to lead to their apprehension than policy option 4a. Policy option 4b is likely to be effective in this respect because entry into the EU will have involved a significant financial transaction and, if necessary, this process could help in the identification of overstayers.

Only policy options 3a and 3b contribute markedly to facilitating the cross border crossing of bona fide travellers. However, both policy options 2a and 3c contribute to some extent.

None of the policy options contribute markedly to reducing terrorism or serious crime but policy options 2a and 4b have the greatest potential in this respect.

Policy option 4b has the greatest potential to contribute to the management of economic migration. Policy options 2a and 4a would also contribute significantly in this respect.

5.7 The preferred option

There is clear merit in pursuing policy option 2a the entry/exit system for TCNVH to meet in particular the objective of deterring illegal migration. The costs are low and the policy benefits significant. There are no major risks associated with the policy option except those that concern the successful implementation of the status quo. Policy option 2a should thus be part of the preferred option.

The balance of costs and benefits of policy option 2b, the entry exit system for TCN not requiring visas is less clear cut. There would be significant costs associated with the enrolment of TCN but there would be benefits in reductions in illegal migration. However, given the importance of reducing illegal migration and the improved information on patterns of overstaying that the sub policy option would provide, and because should there be changes in visa policy that mean some the citizens of some countries would no longer require visas there would be resource savings to the EU, it is proposed that policy option 2b should also be part of the preferred policy option.

None of the arguments for the sub options within policy option 3 are extremely strong because the benefits to travellers of being on Registered Traveller Programmes derive in large part from the relative 'costs' from queuing and border procedures of being 'normal' travellers. It would be preferable if such costs were themselves low for all passengers. However, on balance sub policy option 3a which would provide a Registered Traveller Programme for TCN, would offer some compensation to TCN

frequent travellers for the increased 'burdens' arising from the status quo and policy options 2a and 2b. Thus this sub policy option should be part of the preferred option. On the other hand the benefits of the introduction of sub policy option 3b, a harmonised Registered Traveller Programme for EU citizens would be unlikely to offset the costs and could be seen as discriminatory. At the same time sub policy option 3c that would provide a legislative framework for the development of Registered Traveller schemes and Automated Border Control tailored to the needs of particular border crossing but maintaining minimum standards would be of merit and of low cost. Thus it is proposed to include policy option 3c in the preferred option.

Policy option 4a does not offer benefits additional to those that would accrue from policy option 2a and it would impose considerably greater costs on travellers and visa consulates (although it would not require the successful implementation of the status quo). For this reason it is not included in the preferred option.

The policy option that 'scores' best in the comparative assessment is policy option 4b a system of bonds applying to TCN requiring visas. Policy option 4b would provide data on overstayers. There is no reason why these data should be less good than those generated in policy option 2a. Furthermore, the incentive of the bond being returned could mean that fewer TCNVH overstay than in policy option 2a.

The policy option 4b would be most effective were it part of a wider policy for the management of economic migration and international development. This would require that bonds were set at different levels for different types of visitors and migrants. The policy option would perhaps be most useful under a scenario where migration policy was designed to accommodate large numbers of temporary workers from third countries requiring visas in response to high labour demand within the EU and as a deliberate policy of international development. Such benefits and policy scenarios arguably go beyond the scope of this Impact Assessment study. Also the sub policy option has several drawbacks:

- First, it could be perceived as discriminatory. Previous attempts to apply such systems to selected countries have had this effect and generated widespread opposition, as in the UK (Annex 3). For the policy option to be successful it would need to be comprehensive at EU level. Generating a climate in which such a policy option was seen as a constructive contribution to meeting EU labour market needs and contributing to the development of the countries of origin of temporary economic migrants would be a major undertaking.
- Second, the policy option could be viewed as regressive. Visas to visit the EU are already seen as expensive. If the tariffs for bonds were set at a high level for those from the poorest countries and with least skills because they were considered least likely to return, this view would be reasonable. However, the impacts of preventing the temporary economic migration of such groups could be more regressive and could trigger them to pursue illegal migration channels.
- Third, in current circumstances in order to ensure that the bonds are only returned to those that have left and to the provider of the bond, TCNVH would need to verify their return to their country of origin by revisiting the visa consulate and (when the status quo is in place) providing biometric details to verify their identity. This would impose significant costs on the visa holder. However, should policy option 2a be implemented verification could be provided

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

by the exit record. Thus, policy option 4b is likely to work best as a complement to policy option 2a.

In these circumstances sub policy option 4b is not put forward as part of the preferred option. It is recommended however, that feasibility work is undertaken at the EU level involving the Directorate Generals concerned with employment of migrants within the EU, and international development, as well as the management of external borders. At the same time the potential of a bond system should be tested with seasonal workers, a group for whom it should have considerable potential.

The preferred option is a combination of PO2 an entry exit system for all TCN (sub policy option 2a and 2b and a PO3a Registered Traveller Programme open to TCN and policy option 3c a setting minimum standards for the development of 'local' Registered Traveller schemes and Automated Border Control.

Table 5.9 presents a summary assessment of the preferred option.

Table 5.9 Summary assessment of the preferred options (Sub policy option 2a, 2b, 3a, 3c)

Assessment Criteria derived from policy objectives	Anticipated impact effectiveness (rated from – to √√√√√)	Explanation of rating and aspects of the policy option necessary to achieve positive impacts
Policy objective: To deter illegal immigration	√√√	<i>Very significant contribution</i> Legal entry into the EU and subsequent overstaying by all TCN would be discouraged through the high probability that overstayers would be identified accurately with the incorporation of biometrics and there would be a possibility to apply sanctions. However, illegal migration will remain a problem (i.e. clandestine entries).
Policy objective: To generate information that would help <i>identify</i> and <i>apprehend</i> irregular and illegal migrants including over-stayers	√√√ √	<i>Very significant contribution to identification</i> In terms of identification, information on a significant group of illegal migrants, i.e. the overstayers, would improve. <i>Some contribution to apprehending</i> Alerts may help apprehend some illegal migrants, i.e. overstayers. However, the address provided at time of applying for a visa or entry into EU and/or referee may be of little help in locating overstayers. Only limited information would be provided by TCN not requiring visas when they enrol. Member States would be responsible for mobilising capacity for apprehending and returning overstayers.
Policy objective: To facilitate bona fide crossings of EU external borders	√√√	<i>Very significant contribution</i> However, the improvements would only accrue to Registered Travellers who would be a minority of TCN and EU citizens. Security checks would still have to be carried out (e.g. random checks or pre-screening).
Policy objective: To generate information that would prevent terrorism	√	<i>Some contribution.</i> Biometric identity checks would be applied to TCN not requiring Visa. This might be <i>used for</i>

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

and criminal activity		<i>identification purpose.</i> <i>However, known terrorists or criminal may be unlikely to enter (or exit) the EU legally</i>
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects	√	<i>Some contribution</i> Possible small effect though travel histories of suspects being available. Access would be limited to law enforcement agencies with justified need to access the information and submitted to adequate data protection safeguards.
Policy objective: To improve the effective management of economic migration	√√	<i>Significant contribution.</i> The system would improve confidence to grant visas to temporary migrants due to the incentive to not overstay and generation of data that would allow for the analysis of profiles and patterns of overstaying

The preferred policy option could be seen as a package of measures to balance increasing security with possibilities for travel facilitation.

The preferred option generates reasonable benefits and contributes to the achievement of the main objectives. The potential of the preferred option with respect to reducing terrorism and serious crime is however minor. The preferred option includes two complementary measures as the Registered Traveller Programme can be seen as compensatory to TCN that are subject to more stringent migration and border controls and the potential costs of waiting at borders through the entry/exit system. The preferred option does not have major disadvantages. The costs would be marginal increases to those of the status quo. However, the preferred option is very highly dependent upon the success of the implementation of the Status Quo. Failure for the VIS system of identity checks at EU external borders, and to operate efficiently and at all border points would render the preferred option of limited benefit. The preferred option would require several safeguards:

- If there were errors on the identity checks of passengers, facilities would need to be available for 'manual checks' and for amending the data on entry and exit at all border points. Otherwise TCN could be penalised unfairly because of system error.
- Facilities should be widely available to update information in the entry exit system to reflect changes, such as circumstances that might lead to overstays (for example, plane cancellations, sickness etc.).
- Some form of 'right to appeal' against sanctions imposed due to apparent 'overstaying' would need to be introduced.
- To be effective data would have to be retained on the histories of cross border movements of TCN. This raises data protection issues that will need to be safeguarded. A limit of the duration that data were held would need to be set.

Preparatory study to inform an IA on the creation of an automated entry exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers.

Table 5.10 – The comparative assessment of Policy Options

The comparative assessment of Policy Options and sub options									
<i>Policy Options (Anticipated impacts rated from – (no contribution to objective) to √√√√ (full achievement of objective)</i>									
Objective to be achieved/ problem addressed	Policy Option 1	Policy Option 2a	Policy Option 2b	Policy Option 3a	Policy Option 3b	Policy Option 3c	Policy Option 4a	Policy Option 4b	Preferred PO 2a,2b,3a,3c
Policy objective: To deter illegal immigration	√	√√	√√	½	½	½	√	√√	√√√
Policy objective: To generate information that would help <i>identify</i> and <i>apprehend</i> irregular and illegal migrants including overstayers	√	√√√ √	√√√ √	0	0	0	√	√√√ √√	√√√ √
Policy objective: To facilitate bona fide crossings of EU external borders	-	√	-	√√	√√	√	0	0	√√√
Policy objective: To generate information that would prevent terrorism and criminal activity	√	0	√	-	-	½	0	√	√
Policy objective: To generate information that would lead to (or help ensure) the apprehension of terrorist and criminal suspects.	√	√	√	0	0	0	0	√	√
Policy objective: To improve the effective management of economic migration	√	√√	√	0	0	0	√√	√√√	√√
Relative costs	NA	Low	Medium	Low	Medium	Low	Medium	Medium	Medium
Preferred option		√	√	√		√			

6 ELABORATION OF THE PREFERRED OPTION

6.1 Introduction

This section of the report elaborates the preferred option. That is a combination of an entry exit system for all TCN (sub policy option 2a and 2b) and a Registered Traveller Programme open to TCN (sub policy option 3a) and setting minimum standards for the development of 'local' Registered Traveller schemes and Automated Border Controls for EU citizens holding e-passports (sub policy option 3c).

The section considers in turn:

- The European added value, proportionality and subsidiarity
- The costs and resources required
- Legislative implications
- Measures to ensure effectiveness
- Measures to ensure data protection
- Phasing
- Key risks and assumptions

6.2 European value added, proportionality and subsidiarity

The considerations of European added value, subsidiarity and proportionality include for example: is there a difference between what is done now and what will be done? Are Member States trying to deal with the issues already? What are the benefits of an EU level approach in terms, for example of economies of scale? What are the competences to act at European level? How robust will the preferred policy option be in the context of foreseeable changes in terrorism, related threats, migration patterns and technological possibilities?

The need for intervention at the European level is clear. In practice the preferred option would apply to the Schengen area which currently includes all EU15 member states except UK and Ireland and 2 other European countries (Norway and Iceland). Nine of the new Member States will become full Schengen members by the end of 2007. Schengen countries are committed to the maintenance of common EU borders and common standards for border controls. TCN that enter the Schengen area are able to travel freely within it.

The entry/exit system for TCN requiring visas (sub policy option 2a) builds on the VIS and status quo policy option through which much of the necessary investment will have taken place. Its implementation and effectiveness will require the cooperation of Schengen countries. The case for organisation at the EU level is compelling. The additional costs are low and the sub option is clearly proportionate.

The entry/exit system for TCN not requiring visas (sub policy option 2b) requires to be implemented at the Schengen level. It could have important implications for and dependencies on visa policy which is determined at the Schengen level. The policy option needs to be implemented at all EU borders and will have implications for burden sharing and the border guard resources of all Schengen countries. The costs are high but proportionality will be assured should the enrolment system envisaged gradually replace visa requirements for certain third country nationals.

The Registered Traveller Programme open to TCN (sub policy option 3a) has to be implemented at the EU Schengen level although special facilities for the passage of Registered Travellers would not need to be introduced at all border crossings. The sub policy option also could have implications for international relations (charges and vetting would be applied to registered travellers). The net costs are likely to be low and proportionate to the benefits offered to bona fide registered travellers.

Minimum standards for Registered Traveller Schemes and Automated Border Control (sub policy option 3c) would similarly need to be introduced at the Schengen level. This is because the implications of 'failures' of a registered traveller scheme and Automated Border Control operating in one country could impact on other Schengen countries.

Minimum standards for RTS should include:

- safeguards on data protection and limiting access to biographic and biometrics information that was collected/ stored
- minimum technical standards on system security and verification of the identity and validity of the travel document
- minimum standards on eligibility to the RTS (e.g. types of vetting – checks against SIS II, Europol database and other national databases)
- minimum standards on random and secondary checks
- minimum standards on elements to ensure the efficient running of the RTS (e.g. maximum waiting time at the automated gate before being referred to manual identity verification; number of staff supervising/assisting passengers at the automated gates, etc.)

Minimum standards for ABC should establish:

- the purpose and scope of ABC (e.g. only identity verification and open to all EU citizens with no need of pre-enrolment or vetting) and operational characteristics (no collection or retention of personal and biometrics data, no recording of travellers' movements).
- the use of e-passports (and only e-passports) and biometrics information already included in e-passports (i.e. fingerprints and digital facial data)
- operability (EU citizens should be able to use this facility in all Member States)
- minimum standards on random and secondary checks

- minimum standards on elements to ensure the efficient running of the ABC (e.g. maximum waiting time at the automated gate before being referred to manual identity verification; number of staff supervising/assisting passengers at the automated gates, etc.)

The preferred policy option would remain relevant were there marked changes in border control and migration policies and foreseeable changes in the patterns of EU external cross border movements. The preferred option would not limit the scope for the introduction of other improvements.

6.3 Costs and resources required

The costs of the entry/exit system for TCN requiring visas (sub policy option 2a) will be small and essentially just those costs required to record, store and transmit data on the time of entry and exit of TCNVH. The critical and higher expenditure will have taken place within the status quo.

The costs of the entry/exit system for TCN not requiring visas (sub policy option 2b) is potentially high but could be offset by lower numbers of TCN requiring visas. In 2006 Brazil was the only country where visas are not required to enter the EU amongst the top 10 third countries with the highest numbers of citizens apprehended as illegal migrants⁶⁴. The total for Brazil was 17,000 which was only 3.4% of the total of all illegal migrants apprehended (516,195). If this were indicative of the proportion of all illegal migrants coming from countries where visas are not required then the estimated additional border guards to enrol all TCN not requiring visas could be disproportionate. However, should the adoption of the sub policy option lead to other countries not requiring visas then the aggregate costs would reduce both to the EU and to the TCN travellers. The enrolment costs would reduce if the period of enrolment was prolonged, as it is reasonable to assume that a high proportion of visits to the EU and external border crossings are repeat visits.

The costs of a Registered Traveller Programme open to TCN (sub policy option 3a) would be low (applicants would need to be vetted, and separate channels introduced at border crossings where large numbers of TCN enter and leave the EU). The numbers of applicants would be influenced by the charging structure adopted and the perceived benefits. It is likely that only travellers entering and leaving the EU more than 10 times a year would perceive that the benefits of registration would outweigh the costs. There could also be merit in restricting the scheme to frequent travellers and people with multiple visa to and from the EU because the close ties they are likely to maintain with individuals and companies in the EU could be a basis for judging that they could be "trusted". The costs could be offset by charges to TCN registered on the programme and by the resources freed up and which could be used to focus border controls on higher risk groups.

The direct costs of the minimum standards for Registered Traveller Schemes and Automated Border Control (sub policy option 3c) would be low. Some resources would be needed for drafting the legislation and a working group/ committee to define and review the minimum standards. However, it is not envisaged that there would be major costs in the individual Registered Traveller schemes and Automated Border Control meeting such standards because it is likely that the existing and planned schemes

⁶⁴ See Annex 5.1 table 4

would do so in any case or the adjustments required would be minor. Resources would also be required to monitor and enforce the minimum standards but it is likely that the number of schemes would be small and these requirements modest.

The administrative costs of the preferred policy option are indicated in Table 6.1. The format of the table is consistent with that given in the Annex 10 to the Commission's Guidance on Impact Assessment.

It is anticipated that the infrastructure for some aspects of the preferred policy option will be more difficult to implement at land borders than at sea and air borders, for example, the facilities to enrol TCN not requiring visas. Also some aspects of ABC systems may need to be less stringent at land borders due to variations of the flows of travellers⁶⁵

⁶⁵For example the ABC in Hong Kong (e channels) at the land border only use facial biometric data rather than fingerprints.

Table 6.1 Administrative costs of preferred policy options

Preferred option	Type of obligation	Types of action	EU legislative and operational staff	Member state visa, security and enforcement staff	Member state border control staff (additional)	Member state border control staff (saved)
2a Entry exit TCN Visa holder	VIS Regulation amendment	Modify VIS and border points so as to record entry exit movements	12 person months working on policy and regulatory basis No account of operational costs as these are being considered in the technical feasibility study. Estimated costs 120,000 euro			Savings already in status quo
2b Entry exit TCN non Visa holder	New border code VIS Regulation	Modify VIS and border points so as to record entry exit movements and enable enrolment.	No account of operational costs as these are being considered in technical feasibility study.		3100 additional border guards for enrolment process	
3a RTP for TCN	New border code VIS Regulation	Vetting system for TCN Modify border points with additional channels	12 person months working on policy and regulatory basis. No significant operational role. Estimated costs 120,000 euro.	Cost per vetting of TCN RTP (up to 100 euro per applicant). Relatively low because the RT would otherwise go through the same channel. Estimated total cost assuming 1.5 million per annum first year and declining substantially subsequently. Say 200million over 5 years. These costs could be appropriately allocated on burden sharing/solidarity basis. (They could also be offset by		Secondary (random) checks would be less frequent for RTs Some savings would therefore be possible. If 10% of cross border movements were by RT and the secondary checks were reduced by 50% then savings on border guards savings of up to 5% of those involved in secondary checks would

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Preferred option	Type of obligation	Types of action	EU legislative and operational staff	Member state visa, security and enforcement staff	Member state border control staff (additional)	Member state border control staff (saved)
				fees, but the PO 3a assumes there would be no fees)		be possible. It is reasonable to assume that 20% of border control staff are involved in secondary checks.
3c RTS and ABC for EU citizens	Minimum standards	Legislation for minimum standards and system for monitoring and enforcement	24 person months working on policy and regulatory basis. No significant operational role Estimated costs 120,000 euro	Some costs might be incurred in meeting standards but until these are defined it is not possible to say. Some costs would be incurred in ensuring enforcement. Stipulations would be required on how often borders with RTS and ABC would need to be visited. Currently there are 4 RTS and 1 ABC in the EU. If it is assumed that enforcement visits costs 2000 euro per scheme per annum the costs would be 10,000 pa in current circumstances. However, the numbers of RTS and ABC would be expected to increase markedly.		The use of RTS and ABC could be associated with costs savings. Potential savings if the minimum standards included requirement to provide ABC.

6.4 Legislative implications

Entry/exit system: It is not envisaged that major legislation would be needed for the entry/exit system for TCNVH (sub policy option 2a). However, amendments to the Schengen borders code and/ VIS Regulation would be necessary in order for cross border movements of TCNVH to be recorded in VIS (the exit element). Whilst not essential for the efficacy of this sub policy option there would be merit in a measure of harmonisation of the definition of overstayers and of the sanctions applied to TCN that become overstayers and the procedures for removals.

It is envisaged that new Community legislation would be required to implement the entry/exit system for TCN not requiring visas (sub policy option 2b). The requirement of TCN to enrol would be mandatory, a condition of entry to the EU and the information generated by the sub policy options could be used to identify apprehend and return overstayers and limit the possibilities for them to enter the EU or otherwise impose sanctions on them. Whilst not essential for the efficacy of this sub policy option, there would be merit in a measure of harmonisation of the definition of overstayers, the 'sanctions' applied to TCN that become overstayers and the procedures for removals.

Registered Traveller Programme/schemes: Although arguably a less significant change than the above sub policy option (the programme would be voluntary and the advantages to passengers would be that they could use separate channels, but otherwise the border controls would be the same as for non registered travellers) there would be merit in the Registered Traveller Programme open to TCN (sub policy option 3a) being supported by EU legislation and part of the legislative framework for sub policy option 2b. This is because one rationale for it is that it could compensate for drawbacks and costs imposed by the status quo and sub policy option 2b.

Minimum standards for Registered Traveller Schemes and Automated Border Control (sub policy option 3c) would require new legislation.

If either the entry /exit system or Registered Traveller Programme and Automated Border Control aspects of the preferred option altered the rules applicable to security checks then it may also be necessary to amend the Community civil aviation security legislation.

6.5 Measures to ensure effectiveness

In order to maximise the effectiveness of the entry/exit system for TCN requiring visas (sub policy option 2a) there is a need to ensure that migration and other law enforcement resources are available to make use the information generated by the alerts. There would also, as mentioned above be merit in a measure of harmonisation of the definition of overstayers the 'sanctions' applied to TCN that become overstayers and repatriation measures. The sub policy option should allow for authorised access to database to enter explanations of 'forced' overstays (e.g. plane cancellations, border controls not working, sudden illness).

Similarly in order to maximise the effectiveness of the entry exit system for TCN not requiring visas (sub policy option 2b) there is a need to ensure that migration law enforcement resources are available to make use the information generated by the alerts. There would also, be merit in a measure of harmonisation of the definition of

overstayers and of the sanctions applied to TCN that become overstayers. In addition this sub policy option would be greatly strengthened were there a readiness to change visa policies and see the entry/exit system as replacing visas requirements in circumstances where the instances of overstaying of citizens from a particular third country are low. Doing so would offset the costs of additional resources, 'enrolment' would be less costly alternative to visas. The sub policy option should allow for authorised access to database to enter explanations of 'forced' overstays (e.g. plane cancellations, border controls not working, sudden illness). The sub policy option could be considered highly controversial and some passengers could react negatively to the provisions and new imposition of giving biometric information and 'suddenly' being considered untrustworthy. This study has not undertaken empirical work in order to gauge any such reaction but considerable efforts may be required to 'sell' its merits and reassure passengers that the data collected will be adequately protected.

The effectiveness of the Registered Traveller Programme open to TCN (sub policy option 3a) is dependent upon the establishment of a straightforward system of eligibility and vetting and ensuring that the vetting is updated systematically and regularly. It is also dependent on the introduction of channels for Registered Travellers at border crossings where TCN are prone to being delayed due to border controls.

The effectiveness of minimum standards for Registered Traveller Schemes and Automated Border Control (sub policy option 3c) will ultimately depend upon the competences and skills of those responsible for the management of border controls. It is likely that the technical aspects of the minimum standards of Registered Traveller Schemes and Automated Border Control will be relatively straightforward to define and measure. However, their effectiveness will remain dependent upon judgement over the vetting processes and the efficacy with which secondary checks on identities are undertaken.

Specific staff training will be essential on for example, how to take biometrics, how to store biometrics and biographic information, how to guarantee and confidentiality and data protection, and how to assist passengers in using the systems.

6.6 Measures to ensure data protection and protection of rights of travellers

It is important that the preferred policy option should comply with data protection principles and the requirements of necessity, proportionality, purpose limitation, quality of data; and, that safeguards and mechanisms are in place for the effective protection of the fundamental rights of the individual travellers and in particular the protection of their private life and their personal data. However, the preferred option is relevant to both migration and to combating terrorism and serious crime and as with aspects of the status quo this poses data protection challenges.

The entry/exit system for TCN requiring visas (sub policy option 2a) poses new data protection challenges. Although some of the information generated would be, in theory, already available⁶⁶ the sub policy option would involved the systematic recording and storing of information on the time and place of entry and exit of TCNVH. Most travellers crossing the EU and other international borders provide similar information via ticketing

⁶⁶ TCNVH passports are stamped on entry and exit. On exit border officials are able to ascertain whether the visa holder has overstayed.

information held by carriers or on other records of entry and exit⁶⁷ and may not consider such information as highly confidential. However some will consider its retention on a database invasive, as the data would normally be held as confidential. Whether or not the information is considered confidential is, in any case, irrelevant from the perspective of data protection law and has limited relevance (according to ECHR case law) as regards the protection of the right of privacy.

The data would be stored in a form that could be easily manipulated and there is a potential problem, as with any data of this type, that it could be used inappropriately to profile different types of passengers and misleadingly categorise certain travellers as 'high risk'. The data could also be used by law enforcement agencies in connection with other sources of data such as mobile phone records in a manner that would certainly infringe privacy.

The provisions of data protection for VIS and the status quo including the retention of information for just 5 years would be necessary to ensure that adequate data protection provisions for this sub policy option. In addition, provisions would be necessary to ensure that, for the records of entry and exit that:

- The data generated by the entry/exit system should only used by migration agencies except in exceptional circumstances where 'motivated' law enforcement agencies seek with good cause, evidence on the travel histories of named individuals.
- Individuals should have the right to access to information held on them and to challenge and correct it if errors have occurred.
- The data protection arrangements should be overseen by the European Data Protection Supervisor
- The provisions would allow for appeals in cases where TCNVH holders are 'forced' to overstay and/or if there were errors made in recording dates of entry and exit.

The systematic recording of TCNVH travel movements could also be of value to visa applicants to demonstrate that their previous travel histories had been consistent with previous visa requirements.

Sub policy option 2b would create additional challenges of data protection similar to policy option 2a. The basic provisions for protection would need to be similar to those of VIS plus provisions relating to the entry/exit information. However, the data collected on TCN not requiring visas would be less extensive than that given by visa applicants and hence issues of data protection would slightly be less challenging in this case. The rights to appeal in circumstances of errors occurring and 'forced' overstaying would need to be ensured. At the same time given the large numbers of 'new' travellers affected and the new requirement for them to provide biometric information the data protection and appeals mechanisms would need to be visible and evident.

⁶⁷ Road passengers in private vehicles would not normally give such information

The Registered Traveller Programme open to TCN (sub policy option 3a) would pose data protection challenges over and above policy option 2a and 2b. The vetting process might involve the collection of personal information over and above that required to obtain a visa or enrol as a TCN not requiring a visa. At the same time the Registered Traveller Programme in this sub policy option would be voluntary. Data protection provisions including the right of access to personal information that had been used to inform refusals of applications would be appropriate. In the same vein the Registered Traveller Programme in this sub policy option should include the requirement of authorities to provide the reasons for refusal and the opportunity for applicants to appeal against refusal.

Minimum standards for Registered Traveller Schemes and Automated Border Control (sub policy option 3c) would itself define the minimum standards for data protection and identify the most appropriate means of achieving these. Minimum standards could also include procedures on authorities providing reasons for refusal, access by the applicant to the information used to inform such refusals and the opportunity to appeal against refusal. Particular consideration would need to be given to the use and transmission of biometric data. Limitation on the access to the information, although provided voluntarily, would nevertheless be extremely important. Rather than raising issues of data protection and fundamental rights this sub policy option could help strengthen data protection arrangements and the respect of fundamental rights.

6.7 Phasing

The entry/exit system for TCN requiring visas (sub policy option 2a) would ideally be implemented in parallel with VIS, .i.e. from 2009. Whilst technically it may be possible to introduce an entry exit system for TCN without biometrics prior to the successful implementation of the developments envisaged within status quo this is likely to be expensive subject to relatively low levels of identity validation.

The entry/exit system for TCN not requiring visas (sub policy option 2b) would use the same biometric measurement and recognition procedures as used for VIS and could not be introduced with biometrics before VIS. However, extensive testing and trials of the enrolment procedures would be required to ensure that the biometric information collected is reliable to subsequently verify identities, that the time taken is sufficiently small and that its roll out to all border crossings is feasible and that it would not induce undue delays through queuing. Large numbers of adequately trained staff would be required.

The Registered Traveller Programme open to TCN (sub policy option 3a) should ideally be available at the same time as VIS as the requirements of the status quo (and policy option 2) provide part of the rationale for this sub policy option. Commitment to the sub policy option by the time of the introduction of VIS, i.e. from 2009 would be beneficial.

Minimum standards for Registered Traveller Schemes and Automated Border Control (sub policy option 3c) could proceed immediately but it would require some time before the minimum standards could be defined. Policy options 2a, 2b and 3a would need to be implemented at all air sea and land borders. However, the need for RTP and related infrastructure would be much greater at some border crossings than others.

6.8 Key risks, assumptions and aspects of feasibility

The key risks to the effective implementation of the preferred option are as follows:

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- That the assumptions concerning the status quo are correct: in particular that (efficient) biometric checks will take place on TCNVH on entry and exit at all border crossing points by 2012. The time taken for the automatic recognition checks and the error rates need to be low.
- The procedures for automatically recording the time of entry and exit and the provision of alerts in sub options 2a and 2b are accurate and the alerts are provided at exits within a matter of seconds.
- The procedures for the enrolment of TCN not requiring visas are efficient and do not lead to undue delays at border crossings.
- The measures to ensure effectiveness and data protection are implemented.

The balance between the benefits and costs of the preferred option is particularly dependent on the assumptions underpinning the status quo. If these are incorrect then the merits of the preferred option would be undermined.

7 MONITORING AND EVALUATION

Table 7.1 indicates an ideal set of indicators that will need to be monitored. Assessing causality in the framework of the evaluation of the impact of the preferred option is likely to be very difficult because of the large number of other factors that affect the problem being addressed.

This part should include information on who should monitor/evaluate what, when and how. Now we only have an answer to the last question because the contractor gives us indicators. The information who will be responsible for the actions and when they will take place should be added.

Table 7.1 Monitoring and Evaluation indicators

Problems addressed	Contextual indicators	Inputs and direct outputs	Effects (of the preferred option)	Impacts	Availability of information and responsibilities and approach
Illegal migration	<p>Estimates of levels of illegal migration</p> <p>Numbers of illegal migrants apprehended (by country)</p> <p>Numbers of illegal migrants returned (by country of origin)</p>	<p>Number alerts of overstayers given (by country of origin).</p> <p>Number of incorrect alerts of overstayers</p>	<p>Numbers of alerts leading to apprehensions</p> <p>Numbers of border guards</p>	<p>Estimates of changes in illegal migration</p> <p>Changes in visa policies (ie countries requiring visas)</p>	<p>The main sources of information would be Eurostat, the European Migration Network and operational record from VIS. Reports could be prepared on an annual basis.</p> <p>The improved data on the incidence of overstayers would improve estimates of the contribution to illegal migration of those that enter the EU legally but limitations on the accuracy of estimates of illegal migration as a whole would remain.</p>
The costs of bone fide cross border EU external border movements	Numbers of cross border movements by different groups: EU citizens, TCN, TCN	Numbers registering on registered traveller programme/schemes (TCN and EU citizens)	<p>Average time taken by those registered to cross border.</p> <p>Border guard resources</p>		Systematic data on the delays experienced by passengers due to border controls are not available.

Problems addressed	Contextual indicators	Inputs and direct outputs	Effects (of the preferred option)	Impacts	Availability of information and responsibilities and approach
	<p>with visas</p> <p>Average time taken to make cross border movements (including enrolment on entry/exit system at borders (border formalities and associated queuing)</p> <p>Numbers of border crossings introducing additional channels and automatic recognition equipment</p>		released.		<p>Monitoring requirements could be included in specified minimum standards of Registered Traveller Schemes</p> <p>The monitoring and evaluation could be best achieved through longitudinal and before and after case studies of different border crossings.</p> <p>An annual report based on information from a selection of border crossings would be of value. The assessment of the contribution of the preferred option could be made every 2-3 years.</p>
Terrorism serious crime and cross border movements	Numbers of 'registered' persons (entry exit system) identified at border.	Numbers apprehended using information derived from preferred option	Evidence of reduction or diversions of movements of those know to law enforcement authorities	Reductions in terrorism and serious crime	<p>Aggregate data of terrorism incidents and serious crime that takes place are available.</p> <p>However, given the weak causal link between the preferred option and reductions in terrorism and serious crime, together with the limited available data on individual cases monitoring and evaluation with respect to this policy objective will</p>

Problems addressed	Contextual indicators	Inputs and direct outputs	Effects (of the preferred option)	Impacts	Availability of information and responsibilities and approach
					be problematic and should not be a priority.
Management of economic migration	<p>Numbers of permits granted for temporary work within the EU.</p> <p>Number of permits for highly skilled workers.</p> <p>Numbers of permits for low skilled workers.</p>	Numbers of overstayers of TCN that have been given permission to work legally.	Shifts in the policies of EU member states that beneficially affect the balance of supply and demand for labour in the EU.	<p>Changes in economic performance of EU sectors and regions affected.</p> <p>Changes in economic development of Third Countries affected.</p>	<p>Data on these indicators would be available from Eurostat, the European Migration Network and operational data from the entry/ exit scheme.</p> <p>Assessing the impact of the preferred option would be challenging and best undertaken through case studies of individual Member States, sectors and third countries. It would be necessary to assess how the preferred option, particularly the entry exit system had influence visa policy and hence interviews would be required with relevant actors.</p> <p>Evaluation should be undertaken of the other measures in the status concerning this policy objective alongside evaluation of the preferred option</p>