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Report on the evaluation and future development of the FRONTEX Agency

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IMPACT ASSESSMENT BOARD

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Opinion

Title Impact Assessment on: Evaluation and future development of FRONTEX

(draft version of 9 November 2007)

Lead DG DG JLS

1) Impact Assessment Board Opinion

(A) Context

The Hague Programme of 2004 requested the Commission to submit an evaluation of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) to the Council before the end of 2007. This evaluation should contain a review of the tasks and mandate of the Agency and an assessment of whether the Agency should concern itself with other aspects of border management, including enhanced cooperation with customs services and other competent authorities for goods-related security matters. This evaluation is distinct from the one foreseen in article 33 of the FRONTEX Regulation, which will be carried out by the Management Board of the agency in the course of 2008.

(B) Positive aspects

The background notes in the annex on the current functioning of FRONTEX and on the political background are well-written and useful, and may be referred to more often throughout the IA report.

(C) Main recommendations for improvements

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

General recommendation: The IA report should provide a complete assessment of each individual measure, and more specifically improve the analysis of impacts on Member State budgets, administrative burdens, and third countries. It should furthermore clarify the link between this evaluation and that done FRONTEX itself. During its meeting with the Board, DG JLS agreed to make improvements to

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the IA report on all of the following points:

- (1) Each measure under option 2 should be individually assessed and the status of the measures under option 3 should be clarified.** Considering that options 2 and 3 are packages of measures which are bundled on the basis of the term in which they could become effective, the IA report should justify for each component that the proposed action is the best of all options available. In order to do this, all the other feasible sub-options should be identified and assessed, notably as regards subsidiarity (and make it clear where the legal basis for the proposed action already exists) and expected costs and benefits (including possible efficiency gains from acting at EU level). The measures under option 3 reflect longer term possibilities. This requires less analysis at this stage, but the IA report should make it clear that the fact that they are mentioned now does not mean that the Commission commits itself to delivering them without further impact assessment work, if at all.
- (2) The impacts on national budgets, administrative burdens, and third countries should be assessed in more detail.** The IA report does mention that some of the envisaged measures will have a bearing on Member State budgets, and it should attempt to estimate these as good as possible with the available data rather than just qualifying these as "low" or "significant". It is appropriate for the IA report to refer to the fact that a certain measure is proposed on the request of Member States and/or the Council, but also in such cases the IA report should still aim to estimate and justify this expenditure. Impacts on administrative burdens, third countries, and on the fundamental rights dimension should be addressed.
- (3) It should be better explained how the various evaluations relate to each other.** In the problem definition the IA already comments on the difference between the present evaluation and the one that will be carried out by the management of FRONTEX in 2008. This explanation should be made more precise, for instance by explaining what it means that the present evaluation is of a political nature, and how well it connects with the request that was initially made by the European Council.

(D) Procedure and presentation

The IA report should more clearly explain what external and internal consultations have taken place, and whether these have been sufficient to involve all interested parties.

2) IAB scrutiny process

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Author DG	JLS-B-1
External expertise used	No
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