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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council decision on the conclusion, on behalf of the European Community, of an Arrangement between the European Community and the Republic of Iceland and the Kingdom of Norway on the modalities of those states' participation in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
(COM(2006)0178 – C6-xxxx –2006/0063 (CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jean-Marie Cavada

(Simplified procedure - Rule 43(1) of the Rules of Procedure)

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

Page

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION 5

EXPLANATORY STATEMENT.....6

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on the conclusion, on behalf of the European Community, of an Arrangement between the European Community and the Republic of Iceland and the Kingdom of Norway on the modalities of those states' participation in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
(COM (2006)0178 – C6-xxxx –2006/0063 (CNS))

(Consultation procedure)

The European Parliament,

– having regard to the having regard to the proposal for a Council decision (COM (2006)0178)[1],

– having regard to Articles 62, point 2a), 66 and 300 (2), first subparagraph, first line of the EC Treaty,

– having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-xxxx),

– having regard to Rules 51 and 83(7) and 43(1) of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2006),

1. Approves the conclusion of the arrangement;

2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States, the Republic of Iceland and the Kingdom of Norway.

[1] Not yet published in OJ.

EXPLANATORY STATEMENT

The aim of the proposal for a Council Decision which is the subject of this consultation is the signature and conclusion[1], on behalf of the European Community, of an arrangement between the European Community and the Republic of Iceland and the Kingdom of Norway on the modalities of those states' participation in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

The Community policy on the Union's external borders[2] has the objective of establishing integrated management, resulting in a high and uniform level of checks and surveillance of people, a necessary condition for the creation of an area of freedom, security and justice[3]. The Member States have competence for the operational implementation through the national authorities of common rules concerning the surveillance of external borders. However, in order to ensure better operational cooperation between national services, the need to create a Community agency soon became apparent, and this project was mentioned in the conclusions of the Thessaloniki European Council of 19-20 June 2003.[4]

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, called FRONTEX, was created in 2004, pursuant to Articles 62(2)(a) and 66 of the Treaty on European Union and came into force on 3 October 2005. This agency was set up in response to the urgent need to improve the integrated management of external borders of the European Union Member States. The agency's remit covers EU Member States, Switzerland[5] and countries which have adopted the

[1] COM(2006)0178.
[2] It has been a Community policy since the Treaty of Amsterdam.
[3] The concept of 'integrated management of external borders' was introduced at the **Laeken European Council of 14-15 December 2001**, in order to contribute to the 'fight against terrorism, illegal immigration networks and the traffic in human beings' (point 42). The **Seville European Council of 21-22 June 2002**, subsequently approved an action plan on the management of the external borders of the European Union, which established a series of measures to be taken on legislative and operational levels. The **Hague Programme** represented a new stage in the development of a European policy relating to external borders, calling for the pursuance of an 'integrated management of external borders' and the strengthening of checks and surveillance at borders.
[4] Thessaloniki European Council: Presidency Conclusions, 19-20 June 2003: Presidency Conclusions (point 14)
[5] The Management Board is made up of a representative from each Member State and two Commission representatives. See Council regulation (EC) no. 2997/2994 of 26 October 2004, OJ L349 of 25.11.2004, Article 21. The United Kingdom and Ireland have observer status but the UK can ask to participate in the activities of the agency, if agreed with the Management Board. Bulgaria and Romania were also invited to participate in the Management Board, with observer status. On 30 May 2006, the Vice-Chairman of the Board of Governors invited Switzerland to participate in the role of observer. When Switzerland adopts the Schengen acquis, it will share the same status as Norway and Iceland.

Schengen acquis[1], in particular Norway and Iceland.

These last two countries are fully associated with the development of the Schengen agreements, through an agreement signed on 18 May 1999 between Iceland, Norway and the EU[2]. This association allows these countries to take part in the elaboration of new legal instruments relevant to the development of the Schengen acquis. The Agency (FRONTEX) is one of these instruments. Pursuant to Council Regulation (EC) No 2007/2004, of 26 October 2004, establishing the Agency, countries associated with the development of the Schengen acquis take part in its activities. Article 21(3) of this regulation[3] stated that countries associated with the implementation, application and development of the Schengen acquis would take part in Agency activities.

It should be pointed out that the European Parliament, in its resolution of 9 March 2004[4] on the proposal for a Council regulation establishing a European Agency for the Management of Operational Cooperation at the External Borders, pledged its complete support.

The two proposals on which the Parliament is being consulted in the current instance seek to associate Norway and Ireland with FRONTEX and to lay down the modalities of their participation in the agency. However, certain modalities of their participation need to be laid down in distinct agreements, called 'arrangements'. This procedure, requiring consultation with Parliament, fully complies with Article 300 of the EC Treaty[5], concerning the exercise of Community powers to conclude international agreements.

The Commission, responsible for negotiations with the Republic of Iceland and the Kingdom of Norway reached a draft arrangements on 18 May 2005. The arrangement dealt with the limited and exceptional voting rights of the representatives of Norway and Iceland; the financial contribution of Iceland and Norway; data protection and the acknowledgement of the legal status of FRONTEX in Icelandic and Norwegian law.

The rapporteur welcomes the conclusion of this arrangement which enables these two

[1] The Schengen acquis has so far been adopted in thirteen of the EU Member States: France, Germany, Belgium, Luxembourg, the Netherlands as founding states; then, in the 1990s, Italy signed the agreements on 27 November 1990, Portugal and Spain on 25 June 1991, Greece on 6 November 1992, Austria on 28 April 1995, and Denmark, Finland and Sweden on 19 December 1996. (The position of the UK and Ireland is different - under the protocol annexed to the Amsterdam Treaty, Ireland and the UK can take part in any or all of the measures of the Schengen acquis after a unanimous vote has been reached by the thirteen States parties to the agreements and of a representative of the government of the relevant State.) As for the States which became members of the European Union after 1 May 2004, they are bound by the whole of the Schengen acquis, but certain provisions will only be implemented when border checks are removed. The current situation will change when SIS-II is introduced, this being the legal basis for the enlargement of the current SIS to encompass the new Member States.

[2] OJ L 176, 10.7.1999.

[3] Council Regulation (EC) No 2007/2004 of 26 October 2004, OJ L 349, 25.11.2004.

[4] European Parliament legislative resolution on the proposal for a Council regulation establishing a European Agency for the Management of Operational Cooperation at the External Borders (COM(2003)0687 C5-0613/2003 2003/2073(CNS)) C 102 E 28.4.2004, pg. 35-480 and see the von BOETTICHER's report (A5-0093/2004) on the proposal for a Council regulation establishing a European Agency for the Management of Operational Cooperation at the External Borders (COM(2003)0687 C5-0613/2003 2003/2073(CNS)).

[5] Article 300(3), first subparagraph.

countries to contribute towards closer coordination in checks and surveillance at the external borders between the competent administrative services of the participating States. The rapporteur hopes that the Member States will do everything within their power to complete the necessary ratification procedures as quickly as possible in order to associate the Republic of Iceland and the Kingdom of Norway with FRONTEX.