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THE EUROPEAN UNION**

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COVER NOTE

from: The President of the Austrian Federal Council, Peter Mitterer
date of receipt: 7 May 2010
to: José Luis Rodríguez Zapatero, President of the Council of the European Union
Subject: **Proposal for a Regulation of the European Parliament and the Council
amending Council Regulation (EC) No 2007/2004 establishing a European
Agency for the Management of Operational Cooperation at the External
Borders of the Member States of the European Union (FRONTEX)
– Reasoned opinion in accordance with Article 6 of the Protocol (No 2) on
the application of the Principles of Subsidiarity and Proportionality**

Delegations will find attached a translation of the above letter.

Sir,

EU Committee of the Federal Council on 6 April 2010

Statement by the Committee

on **COM (2010) 61 final (27020/EU XXIV.GP)** (deadline for opinion 3 May 2010)

**Reasoned opinion to the Presidents of the European Parliament, the Council and the
European Commission**

**in accordance with Article 5 of the Treaty on European Union and Article 6 of the Protocol on the
Application of the Principles of Subsidiarity and Proportionality**

The EU Committee of the Federal Council discussed the contents of **COM (2010) 61 final
(27020/EU XXIV.GP)** in a public session on 6 April 2010 and comes to the following conclusion:

A. Opinion

The proposal is compatible with the principle of subsidiarity.

B. Reasons

1. This proposal amends the existing Council Regulation (EC) No 2007/2004. It complies with the provisions of Article 74 and Article 77(1)(b) and (c) of the Treaty on the Functioning of the European Union and takes account in particular of the shared responsibilities provided for in the Treaty by retaining the responsibility of the Member States for monitoring their external borders (cf. Article 1(2)2).
2. The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) became operational in May 2005. The Stockholm Programme adopted in December 2009 supported and called for a strengthening of the role of the FRONTEX Agency. This proposal is the response to this demand. The operational capacities in particular will be strengthened (impact assessment after consultation of the Management Board of the existing Agency and the Member States). For this purpose the provision of technical resources by the member States needs to be improved to enable the Agency to adequately plan and coordinate joint operations and pilot projects. In this regard the establishment of a minimum level of technical equipment and the secondment of qualified border guards for a limited period appear useful (Article 3a and 3b).
3. The EU Committee of the Federal Council explicitly welcomes the fact that the activities and authorisation of joint support teams in coordinated operations will be subject to the instructions of the host Member State and will be carried out in principle only in the presence of border guards of that country (Article 3c).
4. Particular attention is drawn in the proposal to the development of return cooperation. The Committee believes that implementation at the European level in this area is to be welcomed and would indeed be beneficial since the Agency will be able to provide the necessary support and coordination in the organisation of joint return operations (Article 9).

5. The proposal amends the mandate and operation of a European agency financed by the EU as defined in an existing Regulation. A direct financial impact for Austria is not therefore anticipated.

(Complimentary close).

(s.)

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