

Working Arrangement Establishing Cooperation Between
The European Agency for the Management of Operational Cooperation at the External Borders of
the Member States of the
European Union and
the United States Department of Homeland Security

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the United States Department of Homeland Security (DHS);

HAVING REGARD to the Frontex Regulation¹, and in particular Article 14 thereof;

HAVING REGARD to the Homeland Security Act of 2002² which established the Department of Homeland Security;

DESIRING to promote the development of broad cooperation on operational and technical border security management matters;

REFERRING to the objectives and tasks of Frontex as defined by the Frontex Regulation, and in particular Article 1 thereof, according to which the responsibility for the control and surveillance of external borders lies with the EU Member States³;

HAVE REACHED a common understanding on establishing mutual cooperation based on the following principles, objectives, organisation and content of such cooperation:

1. PRINCIPLES

Frontex and DHS emphasise that cooperation is intended to be developed gradually, and that the aim is to work towards a sustainable partnership.

2. OBJECTIVES

To cooperate, within the competences of Frontex and DHS, on countering illegal/irregular migration, related cross-border crime and international threats, and to contribute to the strengthening of border security management.

To develop good relations and mutual trust, and promote future additional communication and cooperation among authorities involved in border security management activities in the United States, in the EU Member States and Frontex.

¹ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

² Homeland Security Act of 2002, 107 Pub. L. 296 (Nov. 25, 2002), Sections 102, 879 (Title 6, United States Code, Sections 112, 459).

³ For the purposes of this Working Arrangement the term "EU Member States" includes also Schengen Associated Countries.

3. ORGANISATION

Frontex and DHS intend to establish and maintain a structured dialogue on border security management cooperation between the Executive Director of Frontex and the Assistant Secretary for Policy of DHS.

Frontex and DHS are to designate Contact Points for the administration and implementation of this Working Arrangement. Additional contacts may be designated for specific activities.

When necessary expert working groups may be established with a view to considering specific issues and elaborating corresponding recommendations.

4. CONTENTS

Frontex and DHS intend to undertake cooperative activities in the following areas of border management:

- A. Sharing of experiences and best practices on integrated border management in order to contribute to the strengthening of border security management;
- B. The exchange of relevant information, (including but not limited to reports, data, analysis on incidents, trends, patterns, threats, enforcement actions, observations and findings resulting from the successful application of such actions, migration routes, mass migration planning and prevention strategies) where appropriate and permitted by applicable laws and regulations. This Working Arrangement does not authorise the transmission of personal data related to an identified individual or identifiable individuals.
- C. Collaboration on joint reports regarding the smuggling of people, trafficking in human beings and related cross border crime;
- D. Training (including but not limited to the exchange of trainers, participation in seminars, courses, and visits of experts and border control authorities);
- E. Consultative visits, research, and professional exchanges as authorised by law, which may include the assignment of liaison officers as appropriate and pursuant to a specific liaison officer agreement or arrangement;
- F. Participation in joint operations (including, but not limited to, removals or returns, airport operations, and maritime operations), where appropriate and permitted by applicable laws and regulations;
- G. Collaboration on existing technologies and on Research and Development issues, (including but not limited to capability studies, actual projects, testing and evaluation, mobile biometric data collection and the development of land and sea border surveillance systems);
- H. Cooperation on capacity building with third countries where appropriate and permitted by applicable laws and regulations;
- I. improvement of the operational interoperability among competent authorities of EU Member States and DHS involved in border security management activities.

5. MODIFICATION OF THE WORKING ARRANGEMENT

Frontex and DHS may modify this Working Arrangement on the basis of mutual consent.

6. STATUS

The present Working Arrangement does not create binding obligations under international law. It is not intended to create or confer any right, privilege, or benefit on any person or party, private or public.

All activities under this Working Arrangement are to be carried out in accordance with applicable laws, regulations, and policies.

The provisions of this Working Arrangement should not prevent either Frontex or DHS from cooperating or granting assistance in accordance with the provisions of applicable international treaties and agreements, arrangements, laws, regulations, and policies.

7. COSTS

Frontex and DHS are to bear their own costs and use their own equipment and personnel resources in carrying out their responsibilities under this Working Arrangement. Exceptions to this rule may be mutually determined on a case-by-case basis in accordance with applicable laws and regulations.

8. DISCONTINUANCE

Either Frontex or DHS may discontinue cooperation under this arrangement at any time, but should endeavour to provide 90 days written notice to the other.

For the European Agency for the
Management of Operational Cooperation at
the External Borders of the Member States
of the European Union

For the United States Department of
Homeland Security

[signed]

[signed]

Ilkka Laitinen
Executive Director

Jane Holl Lute
Deputy Secretary

Prague, 28 April 2009

Prague, 28 April 2009