DECISION OF THE MANAGEMENT BOARD

Of 24 March 2006

ON THE FRONTEX FRAMEWORK DECISION ON PRACTICAL ARRANGEMENTS FOR UK PARTICIPATION IN FRONTEX OPERATIONAL ACTIVITIES

THE MANAGEMENT BOARD

Having regard to Regulation (EC) No. 2007/2004 of the Council of 26 October 2004 establishing a European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union, hereinafter referred to as “the Regulation”, and in particular to recital 27, article 12 (1) and (2) as well as to article 20(5);

HAS ADOPTED THIS DECISION:

1) Introduction

At its meetings of 16 December 2005 and 09 February 2006, the FRONTEX Management Board agreed that FRONTEX should negotiate with the UK to agree the terms and conditions for the UK’s participation in / contribution to FRONTEX activities, in accordance with the Regulation.

2) The legal framework

2.1 The Regulation states:

Recital 27:

The Agency should facilitate the organisation of operational actions in which the Member States may avail themselves of the expertise and facilities which Ireland and the United Kingdom may be willing to offer, in accordance with modalities to be decided on a case-by-case basis by the Management Board. To that end, representatives of Ireland and the United Kingdom should be invited to attend all the meetings of the Management Board in order to allow them to participate fully in the deliberations for the preparation of such operational actions.

Article 12:

(1) The Agency shall facilitate operational co-operation of the Member States with Ireland and the United Kingdom in matters covered by its activities and to the extent required for the fulfilment of its tasks set out in Article 2(1).

(2) Support to be provided by the Agency pursuant to Article 2(1)(f) shall cover the organisation of joint return operations of Member States in which Ireland or the United Kingdom, or both, also participate.

Article 20(5):

Should Ireland and/or the United Kingdom request to participate in the Agency’s activities, the Management Board shall decide thereon.

The Management Board shall take its decision on a case-by-case basis by an absolute majority of its members with a right to vote. In decision, the Management Board shall
consider if the participation of Ireland and/or the United Kingdom contributes to the achievement of the activity in question. The decision shall set out the financial contribution of Ireland and/or the United Kingdom to the activity for which a request for participation has been made.

2.2 The FRONTEX Financial Regulation states:

Article 19:
1. The following items of revenue shall be used to finance specific items of expenditure:
   (b) specific financial contributions to the Agency's activities from United Kingdom and Ireland, as laid down in Article 20(5) of Council Regulation (EC) No 2007/2004;¹
2. All items of revenue within the meaning of paragraph 1 shall cover all direct or indirect expenditure incurred by the activity or purpose in question.
3. The budget shall carry headings to accommodate the categories of assigned revenue referred to in paragraph 1 and wherever possible shall indicate the amount.

2.3 The Implementing Rules to the FRONTEX Financial Regulation state:

Article 7:
1. The special financial contributions from UK and Ireland provided for in Article 20(5) of Regulation (EC) No 2007/2004, shall be paid as follows:
   (a) seven twelfths of the sum entered in the budget shall be paid by no later than 31 January of the current year,
   (b) the remaining five twelfths shall be paid by no later than 15 July of the current year.
2. Where the budget is not finally adopted before the start of a financial year, the contributions provided for in paragraph 1 shall be based on the sum entered in the budget for the previous financial year.

3) Procedural issues

3.1. The following procedure shall apply to annual requests by the United Kingdom to participate in the Agency’s activities:
   (i) An annual request to participate can be made on the basis of the FRONTEX Annual Work Programme (and will include reference to the UK’s financial contribution), within two months after its adoption by the Management Board. The Management Board will be invited to approve any annual request to participate / contribute made by the UK.
   (ii) Where the UK submits an annual request to participate in the Agency’s activities on the basis of the FRONTEX Annual Work Programme, the Management Board

shall decide whether to agree to the UK participating in (some or all of) those activities on the basis of that request.

(iii) Each specific request made by the UK, under the terms of its annual request, will be submitted to FRONTEX for onward circulation to the Management Board to agree on a case by case basis. This will be carried out in accordance with FRONTEX’s rules of procedure for taking decisions related to operational tasks. I.e.:

- At the stage of the project initiative FRONTEX will contact Schengen Member States, Schengen Associated countries, and the UK and Ireland;
- a reply will be given within the deadline set out by FRONTEX in each case;
- in accordance with article 8 (Decisions by Written Procedure) of the rules of procedure of the FRONTEX Management Board, the UK’s request will be decided by written procedure and in accordance with the voting rules set out in the Regulation;
- Tacit approval for UK participation will be considered to have been given if no response is received from members of the Management Board within 5 working days, or less if FRONTEX determines it is justified by operational need;
- FRONTEX will notify the Management Board of the results without delay.

3.2. The arrangements at 3.1 above should not prejudice the UK’s ability to make additional requests to participate / contribute during the course of the year if additional activities arise. The FRONTEX Executive Director will contact the Management Board, in case of any additional requests by the UK during the course of the year, setting out the procedure to be followed.

4) Financial issues

Any Management Board decision on a UK request to participate in the Agency’s activities, whether made in relation to an annual request or an additional request during the course of the year, shall set out the financial contribution of the UK in relation to the activities concerned. This shall be done in accordance with the Regulation and the FRONTEX Financial Regulation and its implementing rules.

For the Management Board

Done in Warsaw, 24 March 2006

[signed] M.A. Beuving