Next steps in border management in the European Union and similar experiences in third countries

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PURPOSE: to propose the next steps in border management in the European Union.

BACKGROUND: the external borders of the EU are crossed every year by more than 300 million travellers, EU citizens and third country nationals combined. The dismantling of the EU's internal border controls is one of the greatest achievements of European integration. An area without internal borders, which has expanded from 7 countries in 1995 to 24 countries at the end of 2007 - a unique, historic accomplishment -, cannot function, however, without shared responsibility and solidarity in managing its external borders. Other actions have been completed by the Union as regards border management (legislative framework, Schengen Borders Code, simplified rules for local border traffic, the establishment of the FRONTEX Agency). While Member States remain responsible for controlling their own border, the Union's common policy in support of Member States' efforts should be continuously developed and strengthened in response to new threats, shifts in migratory pressure and any shortcomings identified, using new technology extensively and proportionately. The social and economic dimensions should be given equal weight. Crossing the external border should be simple and quick for third-country nationals fulfilling the entry conditions set by Community and national law. Border management should support economic growth in border regions of neighbouring countries.

This communication intends to define the next steps of this ambitious framework.

CONTENT: against this background this Communication puts forward suggestions for new tools that could form an integrated part of the European border management strategy of the future. It proposes ways to look ahead and reflect on the next generation of border management tools, with the objective of preserving the integrity of the Schengen area while simultaneously facilitating the procedures and border crossings for those seeking to enter for legitimate reasons. The possible tools to reflect on, which would apply with regard to third country nationals travelling to a Member State taking part in the Schengen cooperation or to a country associated to this cooperation, could include:

- facilitation of border crossing for bona fide travellers;
- possible introduction of a registration of entry/exit;
- examining the introduction of an Electronic System of Travel Authorisation (ESTA).

1) Facilitating border crossings for bona fide travellers: the Commission believes that:

a) low-risk travellers from third countries, including those that are subject to the visa requirement and those that are not, could be offered a pre-screening process, on a voluntary basis, with a view to being granted **Registered Traveller status**;

b) when arriving at the borders of the EU Registered Travellers could benefit from a **simplified and automated border check**.

In concrete terms, awarding the status of "Registered Traveller" and providing for automated checks for those persons would mean waiving the verification of certain entry conditions at the border (purpose of stay, means of subsistence, absence of threat to public order). Persons could be granted "Registered

Traveller" status after appropriate screening on the basis of common vetting criteria. These could as a minimum include a reliable travel history (the person should not have exceeded the authorised stay at previous visits to the EU), proof of sufficient means of subsistence, and holding a biometric passport. The Commission presents the outline of the technical conditions aiming to facilitate the implementation of this solution.

Besides the criteria that have been waived for the purpose of allowing a simplified check of registered travellers at the borders, at the border itself, the introduction of **automated gates** could enable the automated verification of travellers' identity without the intervention of border guards. A machine would read the biometric data contained in the travel documents or stored in a system or database and compare them against the biometrics of the traveller. This system could significantly increase cost-effectiveness as more passengers would be processed at the borders by a smaller number of border guards. A machine would read the biometric data contained in the travel documents or stored in a system or database and compare them against the biometrics of the traveller. One border guard should be able to oversee up to ten automated border gates in operation. This category is subject to a "minimum check", at both entry and exit, consisting of the examination of the travel document so as to verify the identity of the individual. The introduction of biometrics in passports could be completed by 2016 for one biometric identifier and by 2019 for two identifiers, at the latest (assuming a maximum period of validity of passports of 10 years). All EU citizens would at that time be able to benefit from automated border crossings should they be taken up by Member States in a widespread fashion. Automated border crossings for EU citizens based on the biometric passports would use the same automated gates as for third-country nationals that are registered travellers.

2) Creation of a system to register the entry/exist of third country nationals: the Commission believes that:

- the automatic registration of the time and place of entry and exit of third country nationals, both those that require a visa and those that do not, to identify overstayers, could be introduced at the borders;
- an alert available to national authorities could be issued once the validity of an individual's stay in the EU has expired, and no exit data had been captured.

An entry/exit system could apply to third country nationals admitted for a short stay (up to 3 months), covering both those that are subject to the visa requirement and those that are not. The system could include the recording of information on the time and place of entry, the length of stay authorised, and the transmission of automated alerts directly to the competent authorities, should a person be identified as 'overstayer', both at the time this occurs and upon departure from the EU.

The alert information would:

- enable national authorities to identify overstayers and take the appropriate measures;
- deter third-country nationals from overstaying;
- provide information for operational purposes on patterns of overstaying (e.g. travel route, fraudulent sponsors, country of origin and reasons for travelling) as well as data on migration flows and overstayers for visa policy purposes.

This new system could use the same technical platform as SIS II and VIS thereby exploiting synergies with the Biometric Matching System (BMS) currently under development and which could form the common basis for the entry/exit system, the VIS and the SIS II.

3) Electronic system of travel authorisation (ESTA): the Commission will examine the possibility of introducing an **electronic system of travel authorisation**. Such a system would apply to third-country nationals not subject to the visa requirement who would be requested to make an electronic application

supplying, in advance of travelling, data identifying the traveller and specifying the passport and travel details. The data could be used for verifying that a person fulfils the entry conditions before travelling to the EU, while using a lighter and simpler procedure compared to a visa. The Commission intends to launch a study in 2008 to analyse the feasibility, the practical implications and the impacts of such a system.

The study to be launched by the Commission on the possibility of an electronic travel authorisation will also consider the relevant **data protection issues** arising from such a system.

Conclusions: having regard to the progress made in agreeing upon and launching the Visa Information System, the EU should consider building on this achievement by reflecting on the necessary parameters for putting in place an **entry/exit system** for all third-country nationals admitted for a short stay. Should this reflection conclude on the opportunity to build such a system, it could be operational by 2015 and future proposals would be needed in order to:

- amend the Schengen Borders Code to ensure that registration of dates of entry and exit is carried out systematically at all crossing points of the external border, and that the enrolment of biometrics at the border for third country nationals not requiring a visa becomes a compulsory entry condition. Also, if a "registered traveller" is created, the Borders Code would need to allow for a simplified check of travellers awarded such a status at the borders;
- decide the setting up of the new entry/exit system to register the entry and exit information and store biographic and biometric data of third country nationals. The system could build on the same technical platform as the VIS/SIS II.

Member States could also reflect on the need to use **automated border control systems for EU citizens**, based on the e-passport or national schemes. A discussion on the development of technical standards to achieve interoperability of national schemes not based on the e-passport should take place in the appropriate fora.

The Commission will report back to the European Parliament and the Council on the outcome of the study on an **electronic travel authorisation system** during 2009. The Commission therefore invites the European Parliament and the Council to engage in a reflection on the future overall architecture of the EU's integrated border management and the use of systems, from the angle of enhancing security and facilitating travel. On the basis of this reflection, the Commission will assess the further development of these systems, including the presentation of the necessary legislative proposals.