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EUROPEAN COMMISSION

Brussels, 29.1.2010
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2010/0006 (NLE)

Proposal for a

COUNCIL REGULATION

**amending Decision 2008/839/JHA on migration from the Schengen Information System
(SIS 1+) to the second generation Schengen Information System (SIS II)**

EXPLANATORY MEMORANDUM

1. Context of the proposal

• Grounds for and objectives of the proposal

The Commission is contributing to the availability of the new SIS II functionalities and thus to maintaining a high level of security within the area of justice, freedom and security. It seeks to give SIS II development fresh impetus after the analysis and repair period during which a considerable number of known issues and bugs have been fixed and solutions have been either designed or implemented to remedy them.

This proposal, and a proposal for a Regulation on the same subject, aim to prevent Decision 2008/839/JHA governing the migration from the Schengen Information System in its current form (SIS 1+) to the second generation Schengen Information System (SIS II) from expiring before migration becomes technically feasible. Furthermore, this proposal ensures legal flexibility for the development of SIS II by means of the alternative technical scenario of SIS 1+ RE, in case a switchover to this scenario should take place.

This proposal is being submitted as a Regulation under the appropriate legal basis of the Treaty on the Functioning of the European Union which has recently entered into force.

Simultaneously, in order to ensure efficient management of SIS II development and migration, a Global Programme Management Board (the "GPMB") is being set up as a group of experts for enhanced management and coordination of the global SIS II programme and related activities as a whole, as well as consistency between the central and national systems' developments. This proposal is congruent with the Council Conclusions of 4-5 of June 2009 which invited the Commission, building upon the experience of and the lessons learned from the global SIS II programme management approach established by the Council Conclusions of 26-27 February 2009 and in compliance with the legal framework, to table an enhanced management approach to the project management structure of SIS II.

Transparency of the SIS II development process for the European Parliament is maintained through the existing reporting obligation.

• General context

The Schengen Information System (SIS) set up pursuant to the provisions of Title IV of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the governments of the States of the Benelux Economic Union, the Federal Republic of Germany and France on the gradual abolition of checks at their common borders (the Schengen Convention), and its development, SIS 1+, constitute an essential tool for the application of the provisions of the Schengen *acquis* as integrated into the framework of the European Union.

The development of the second generation of SIS (SIS II) has been entrusted to the Commission pursuant to Council Regulation (EC) No 2424/2001 and Council Decision 2001/886/JHA of 6 December 2001 on the development of the second generation Schengen Information System (SIS II). SIS II will replace SIS 1+. SIS II development takes into account the latest evolutions in the field of information technology and allows the introduction of added functionalities.

Provisions on the establishment, operation and use of SIS II are laid down in Regulation (EC) No. 1987/2006 of the European Parliament and of the Council¹ of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) and Council Decision 2007/533/JHA² of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II). These instruments foresee that they will apply to the Member States participating in SIS 1+ only as of dates to be fixed by the Council, acting by the unanimity of its Members representing the governments of the Member States participating in SIS 1+. They will then replace the provisions of the Schengen *acquis* governing SIS 1+, in particular the relevant provisions in the Schengen Convention.

Before this can happen, the users of the SIS 1+ will have to migrate to the SIS II environment. A legal framework for the migration from SIS 1+ to the SIS II environment was therefore designed. In order to reduce the risks of service disruption during migration an interim technical architecture for the operations of SIS 1+ will allow SIS 1+ and certain technical parts of the architecture of SIS II to operate in parallel for a transitional period.

The time-frame of the current migration instruments, and in particular their date of expiry which is currently set to be 30 June 2010 at the latest, appears no longer realistic. This proposal therefore aims at preventing expiry of Council Decision 2008/839/JHA before migration will take place. The GPMB's role would be to act as a focal point between the actors and stakeholders involved in global SIS II development. In particular, it would allow the Commission and the Member States to coordinate the global programme in keeping with their respective responsibilities and activities regarding the central and national SIS II projects.

While maintaining the basic allocation of responsibility between the Commission, France and participating Member States as already contained in the instruments to be amended, this proposal will streamline management processes.

- **Existing provisions in the area covered by the proposal**

- Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and France on the gradual abolition of checks at their common borders³ (the Schengen Convention);
- Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II)⁴ as amended by Council Regulation (EC) 1988/2006 of 21 December 2006⁵;
- Council Decision 2001/886/JHA of 6 December 2001⁶ on the development of the second generation Schengen Information System (SIS II) as amended by Council Decision 2006/1007/JHA of 21 December 2006⁷;

¹ OJ L 381, 28.12.2006, p. 4.

² OJ L 205, 7.8.2007, p. 63.

³ OJ L 239, 22.9.2000, p. 19, as last amended by Council Decision 2008/839/JHA of 24 October 2008 (OJ L 299, 8.11.2008, p. 43).

⁴ OJ L 328, 13.12.2001, p. 4.

⁵ OJ L 411, 30.12.2006, p. 1.

- Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) ;
- Council Decision No 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) ;
- Regulation (EC) No 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates⁸;
- Commission Decisions 2007/170/EC and 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II⁹;
- Council Regulation (EC) No 189/2008 of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II)¹⁰;
- Council Decision 2008/173/EC of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II)¹¹;
- Council Regulation (EC) No 1104/2008 of 24 October 2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)¹²;
- Council Decision 2008/839/JHA of 24 October 2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)¹³.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2. Consultation of interested parties and impact assessment

- **Consultation of interested parties**

Member States' experts are closely involved in the continued development of SIS II, in particular in the framework of the SIS-VIS Committee. In addition, SIS II development has been discussed in the framework of the Council preparatory bodies. The Council Conclusions of 4-5 June 2009 invite the Commission to submit as soon as possible, but by October 2009 at the latest, appropriate legislative proposals to amend the migration instruments.

⁶ OJ L 328, 13.12.2001, p. 1.

⁷ OJ L 411, 30.12.2006, p. 78.

⁸ OJ L 381, 28.12.2006, p. 1.

⁹ OJ L 79, 20.3.2007, p. 20 and OJ L 79, 20.3.2007, p. 29.

¹⁰ OJ L 57, 1.3.2008, p. 1.

¹¹ OJ L 57, 1.3.2008, p. 14.

¹² OJ L 299, 8.11.2008, p. 1.

¹³ OJ L 299, 8.11.2008, p. 43.

- **Summary of responses and how they have been taken into account**

The present proposal takes into account the result of extensive discussions with Member States, especially in the framework of the Article 36 committee.

- **Collection and use of expertise**

External expertise was not used to prepare this proposal.

- **Impact assessment**

No Impact Assessment is required for this proposal for a Council Regulation which is not included in the Commission's Annual Legislative and Work Programme (CLWP) and as it is the continuation of a technical project without clearly identifiable economic, social and environmental impacts.

3. Legal elements of the proposal

- **Summary of the proposed action**

The objective of the present proposal is to prevent expiry of Council Decision 2008/839/JHA before migration, to ensure legal flexibility for an alternative technical scenario to attain SIS II functionalities based on SIS 1+, in case a switchover to this scenario should take place, and to render management of SIS II development and migration, in particular regarding coordination of Commission and Member State projects, as efficient as possible. In order to achieve the latter objective, the GPMB is set up as an expert group at global programme level.

- **Legal basis**

The legal basis for this Regulation is Article 74 of the Treaty on the Functioning of the European Union as it concerns administrative cooperation between the competent authorities of Member States in relation to the prevention, detection and investigation of criminal offences. Moreover, this proposal has to do with administrative cooperation between competent ministries and judicial or equivalent authorities of the Member States.

- **Subsidiarity principle**

The proposal respects the principle of subsidiarity in that the main objective of the proposed action, namely the migration from SIS 1+ to SIS II, cannot be achieved by the Member States individually.

- **Proportionality principle**

The present proposal does not go beyond what is necessary to achieve its objective. It complies with the proportionality principle in that the activities of the Commission remain limited to Central SIS II, coordination activities and the provision of a technical tool allowing for the successful exchange of SIS 1+ data between SIS 1+ and SIS II ('converter'). Furthermore, the GPMB has already been in existence as an informal consultation structure for the coordination purposes required by the existing instruments. Coordination between Commission and Member States is necessary to ensure global success of SIS II.

- **Choice of instruments**

A Council Regulation is the only available legal form under the Treaty on the Functioning of the European Union to postpone the expiry date of Council Decision 2008/839/JHA as initially phrased. For the remainder of this proposal, a Council Regulation is the most appropriate instrument for the proposed action in view of the need to apply uniform rules and processes to the management of SIS II development and migration. The provisions set out in this Regulation are precise, unconditional, directly applicable and, by their very nature, do not require action by Member States to transpose them into national law.

A framework decision is not the appropriate instrument because the proposal involves no approximation of the laws of the Member States.

Owing to the two-pillar nature of the instruments to be amended, a proposal for a Council Regulation based on Article 74 of the Treaty on the Functioning of the European Union complements the hereby proposed Council Regulation.

4. Budgetary implications

Council Regulation (EC) No 2424/2001 and Council Decision 2001/886/JHA on the development of the second generation Schengen Information System laid down that the expenditure involved in the development of the SIS II is to be charged to the general budget of the European Union.

Likewise, under Article 5 of Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 and under Article 5 of Council Decision 2007/533/JHA of 12 June 2007 the costs of setting up, operating and maintaining Central SIS II and the communication infrastructure are to be borne by the general budget of the European Union. The costs of setting up, operating and maintaining each NSIS II shall be borne by the Member State concerned.

Under Article 15 of Regulation (EC) No 1104/2008 and Council Decision 2008/839/JHA as they have been phrased heretofore, additional costs for migration, testing, maintenance and development measures at the central level (Central SIS II and Communication Infrastructure) had been allocated to the general budget of the European Union as well. Testing, migration, maintenance and development costs for the national systems, including NSIS II, have continued to be borne by each Member State concerned.

The present proposal does not modify this basic structure. It will, however, extend the existing legal basis that had already been laid down in Regulation (EC) No 1104/2008 and Council Decision 2008/839/JHA to cover the post-30 June 2010 period until migration. In addition, the cost arising from the meetings of the GPMB which is being set up by this proposal, including expenses for members and experts attending, would be borne by the general budget of the European Union. The necessary appropriations to cover the cost arising from the meetings of the GPMB will come from the appropriations currently foreseen in the Financial Programming 2010-2013 for the Schengen Information System (SIS II).

The costs arising from activities at SIS 1+ level, including supplementary activities of France, acting on behalf of the Member States (of SIS 1+), shall continue to be borne in line with Article 119 of the Schengen Convention. This article provides that the costs of installing and operating the technical support function of SIS 1+, as referred to in Article 92 (3) of the Convention, including the cost of lines connecting the national sections of the Schengen Information System to the technical support function, are borne jointly by the Member States,

while the costs of installing and operating the national section of the Schengen Information System are borne by each Member State individually.

The Commission has prepared a financial statement annexed to this proposal.

5. Additional information

- **Amendment of existing legislation**

The adoption of the proposal will entail the amendment of Council Decision 2008/839/JHA.

- **Review/revision/sunset clause**

The proposal contains a modified sunset clause. The new date of expiry will be set by the Council, acting in accordance with Article 71(2) of Council Decision 2007/533/JHA.

- **Timetable**

The present Council Regulation needs to be adopted in June 2010 *at the latest* in order to ensure the continuity of the preparations and the timely execution of activities covered.

Proposal for a

COUNCIL REGULATION

amending Decision 2008/839/JHA on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 74 thereof,

Having regard to the proposal from the Commission¹⁴,

Having regard to the opinion of the European Parliament¹⁵,

Whereas:

- (1) The second generation Schengen Information System (SIS II) was established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)¹⁶ and by Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second-generation Schengen Information System (SIS II)¹⁷.
- (2) The conditions, procedures and responsibilities applicable to the migration from SIS 1+ to SIS II are laid down in Council Regulation (EC) No 1104/2008 of 24 October 2008 on migration from the Schengen Information System (SIS1+) to the second generation Schengen Information System (SIS II)¹⁸ and Council Decision 2008/839/JHA of 24 October 2008 on migration from the Schengen Information System (SIS1+) to the second generation Schengen Information System (SIS II)¹⁹. However, those instruments will expire at the latest on 30 June 2010.
- (3) The preconditions for migration will not be met by 30 June 2010. In order for SIS II to become operational as required by Regulation (EC) 1987/2006 and Decision 2007/533/JHA, Regulation (EC) No 1104/2008 and Decision 2008/839/JHA should therefore continue to apply until migration has been completed.

¹⁴ OJ C [...], [...], p. [...].

¹⁵ OJ C [...], [...], p. [...].

¹⁶ OJ L 381, 28.12.2006, p. 4.

¹⁷ OJ L 205, 7.8.2007, p. 63.

¹⁸ OJ L 299, 8.11.2008, p. 1.

¹⁹ OJ L 299, 8.11.2008, p. 43.

- (4) The Commission and Member States should continue to cooperate closely during all steps of the migration in order to complete the process. A group of experts should be established to complement the current organisational structure.
- (5) The Commission should remain responsible for the Central SIS II and its communication infrastructure. It is necessary to maintain and, where appropriate, further develop the Central SIS II and its communication infrastructure. Additional development of the Central SIS II should at all times include the correction of errors. The Commission should provide coordination and support for the joint activities.
- (6) A technical contingency plan for attaining SIS II functionalities should be foreseen. The description of the technical components of the migration architecture therefore should be adapted to allow for another technical solution regarding the development of Central SIS II.
- (7) The Member States should remain responsible for their national systems (N.SIS II). It is still necessary to maintain and, where appropriate, further develop the N.SIS II.
- (8) France should remain responsible for C.SIS.
- (9) Since the objectives of the action to be taken, namely setting up the interim migration architecture and the migrating the data from SIS 1+ to SIS II, cannot be sufficiently achieved by the Member States and can therefore by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary to achieve those objectives.
- (10) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption of this Regulation and is therefore not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis* under the provisions of Title V of Part Three of the Treaty on the Functioning of the European Union, Denmark should, in accordance with Article 4 of the said Protocol, decide within a period of six months after the adoption of this Regulation whether it will implement it in its national law.
- (11) The United Kingdom is taking part in this Regulation, in accordance with Article 5 of the Protocol on the Schengen *acquis* integrated into the framework of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000, concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*²⁰.
- (12) Ireland is taking part in this Regulation in accordance with Article 5 of the Protocol on the Schengen *acquis* integrated into the framework of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002

²⁰

OJ L 131, 1.6.2000, p. 43.

concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*²¹.

- (13) This Regulation is without prejudice to the arrangements for the United Kingdom's and Ireland's partial participation in the Schengen *acquis* as determined by the Council Decision 2000/365/EC and Decision 2002/192/EC respectively.
- (14) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*²², which fall within the area referred to in Article 1, point G of Council Decision 1999/437/EC of 17 May 1999²³ on certain arrangements for the application of that Agreement.
- (15) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*²⁴, which fall within the area referred to in Article 1, point G of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/149/JHA²⁵ on the conclusion of that Agreement on behalf of the European Union.
- (16) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point G of Council Decision 1999/437/EC of 17 May 1999 read in conjunction with Article 3 of Council Decision 2008/262/EC of 28 February 2008 on the signature, on behalf of the European Union, and on the provisional application of certain provisions of that Protocol²⁶,

HAS ADOPTED THIS REGULATION:

'Article I'

Decision 2008/839/JHA is amended as follows:

- (1) In Article 4, the introductory sentence is replaced by the following:

²¹ OJ L 64, 7.3.2002, p. 20.

²² OJ L 176, 10.7.1999, p.36.

²³ OJ L 176, 10.7.1999, p.31.

²⁴ OJ L 53, 27.2.2008, p. 52.

²⁵ OJ L 53, 27.2.2008, p.50.

²⁶ OJ L 83, 26.3.2008, p. 5.

"In order to ensure the migration from SIS 1+ to SIS II, the following components shall be made available to the extent necessary:"

(2) In Article 10, paragraph 3 is replaced by the following:

"3. To the extent necessary, the converter shall convert data in two directions between the C.SIS and Central SIS II and keep C.SIS and Central SIS II synchronised."

(3) In Article 11, paragraph 2 is replaced by the following:

"2. The Member States participating in SIS 1+ shall migrate from N.SIS to N.SIS II using the interim migration architecture, with the support of France and of the Commission."

(4) The following Article 17a is inserted:

"Article 17a

Global Programme Management Board

1. Without prejudice to the respective responsibilities and activities of the Commission, France and the Member States participating in SIS 1+, a group of technical experts, called the "Global Programme Management Board" (hereinafter the "GPMB"), is hereby set up. The GPMB shall provide a forum for coordination of the central and national SIS II projects.

2. The GPMB shall be composed of maximum of 10 experts. A maximum of eight experts and an equal number of alternates shall be designated by the Member States acting within the Council. Two experts and two alternates shall be designated by the Director General of the responsible Directorate-General of the Commission from among Commission officials. Other Commission officials with an interest in the proceedings may attend meetings of the GPMB.

3. The GPMB may invite further experts to participate in GPMB meetings as appropriate in order to enable it to accomplish its objective as set out in paragraph 1.

4. The GPMB shall meet on Commission premises. Its secretariat shall be ensured by the Commission.

5. The GPMB shall draw up its own terms of reference. They shall take effect after a favourable opinion has been given by the Director General of the responsible Directorate-General of the Commission.

6. Without prejudice to Article 15(2), the administrative costs and travel expenses arising from the activities of the GPMB shall be borne by the general budget of the European Union, to the extent that they are not reimbursed from other sources. As regards travel expenses of the experts in the GPMB designated by the Member States acting within the Council and experts invited pursuant to paragraph 3 of this Article which arise in connection with the work of the GPMB, the Commission's 'Rules on the reimbursement of expenses incurred by people from outside the Commission invited to attend meetings in an expert capacity' shall apply."

(5) In Article 19, the last sentence is replaced by the following:

"It shall expire on a date to be fixed by the Council, acting in accordance with Article 71(2) of Decision 2007/533/JHA."

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty on the Functioning of the European Union.

Done at Brussels, [...]

*For the Council
The President
[...]*

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

This statement accompanies two legislative proposals:

Proposal for a Council Regulation amending Regulation (EC) No 1104/2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)

Proposal for a Council Regulation amending Decision 2008/839/JHA on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

Title 18: Area of freedom, security and justice

Chapter 18 02: Solidarity – External Borders, visa policy and free movement of people

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B..A lines) including headings:

18.02.04 01 – Schengen Information System II (SIS II)

3.2. Duration of the action and of the financial impact:

As these amending instruments extend the expiry date foreseen in the instruments being amended, only costs caused by prolongation of the development and migration phase beyond 30 June 2010, will be taken into account. This excludes costs to be committed until 30 June 2010.

Operation costs financed on another legal basis, such as in particular Regulation (EC) No 1987/2006 and Decision 2007/533/JHA of 20 December 2006 on establishment, operation and use of SIS II, are excluded as well.

The commitment appropriations arising from these amending instruments are foreseen for the period from 30 June 2010 until migration and thereby expiry of the instruments within the envelope programmed to cover the funding of large-scale IT systems.

3.3. Budgetary characteristics (add rows if necessary):

Budget	Type of expenditure	New	EFTA	Contributions from applicant	Heading in financial
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line				contribution	countries	perspective
18 02 04 01	Non-comp	Diff ²⁷	NO	NO	NO	3a

²⁷

Differentiated appropriation.

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.			2010		2011		2012	Total
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Operational expenditure²⁸

Commitment Appropriations (CA)	8.1.	a		6.566		6.284		0	12.850
Payment Appropriations (PA)		b		4.924		6.355		1.571	12.850

Administrative expenditure within reference amount²⁹

Technical & administrative assistance (NDA)	8.2.4.	c							
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c		6.566		6.284			12.850
Payment Appropriations		b+c		4.924		6.355		1.571	12.850

Administrative expenditure not included in reference amount³⁰

Human resources and associated expenditure (NDA)	8.2.5.	d		2.593		3.890			6.483
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e		0.177		0.241			0.418

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c+d+e		9.336		10.415			19.751
TOTAL PA including cost of Human Resources		b+c+d+e		7.694		10.486		1.571	19.751

²⁸ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

²⁹ Expenditure within article xx 01 04 of Title xx.

³⁰ Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing): N/A

- Contribution from Norway 2.200081 % and from Iceland: 0,113386 % (2007 figures) for operational costs, based on Art 12 (1) 2nd paragraph of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 36).
- Contribution from Switzerland: 2.402999 % (2007 figures), for operational costs, based on Art 11 (3) 2nd paragraph of Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen (OJ L 53, 27.2.2008, p. 52).

As regards Iceland and Norway, these proposals build upon the Schengen acquis, as defined in Annex A of the Agreement concluded between the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of both these States with the implementation, application and development of the Schengen acquis. Article 12(1) last paragraph of this Agreement provides: “In cases where operational costs are attributed to the general budget of the European Community, Iceland and Norway shall share in these costs by contributing to the said budget an annual sum in accordance with the percentage of the gross national product of their countries in relation with the gross national product of all participating States”.

As regards Switzerland, these proposals constitute a development of the provisions of the Schengen acquis within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis. Article 11(2) of this Agreement provides: “As regards the costs of developing the second generation Schengen Information System (SIS II), Switzerland shall contribute to the general budget of the European Communities an annual sum for the relevant financial years starting from the 2002 financial year, calculated in accordance with its gross domestic product as a percentage of the gross domestic product of all the participating States”.

4.1.2. Compatibility with Financial Programming

- Proposal is compatible with existing financial programming. The necessary appropriations to cover the cost arising from the meetings of the GPMB will come from the appropriations currently foreseen in the Financial Programming 2010-2013 for the Schengen Information System (SIS II).
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Interinstitutional Agreement³¹ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on Revenue

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

EUR million (to one decimal place)

		Prior to action [Year n-1]	Situation following action				
Budget line	Revenue		2010	2011			Total
	a) Revenue in absolute terms		0.309	0.296			0.605

³¹

See points 19 and 24 of the Interinstitutional agreement.

6312	b) Change in revenue	Δ	0.161	-0.160			0.001
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For 2010, the delta was calculated by reference to half-yearly revenue as this financial statement only covers the period starting on 1 July 2010.

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	2010	2011				
Total number of human resources	50	50				

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

The proposal is aiming at prolonging the legal basis for migrating until this becomes technically feasible. It also aims at creating a management structure in line with internationally accepted best practices in management. In addition, the proposal ensures legal flexibility for attaining SIS II functionalities through an alternative technical scenario based on SIS 1+, in case a switchover to this scenario should take place. The proposal does not modify the basic structure of responsibility, nor does it change the basic structure of financing.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

Given the integration of the Schengen acquis into the institutional framework of the European Union, given further the fact that the SIS II involves both Community and Union competencies, the project of creating a common large-scale IT system requires Community involvement.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The main objective of the proposal is to ensure that SIS II starts operating successfully. The expected result of this proposal is to ensure a smooth migration of data from SIS 1+ to SIS II and the complete switchover to SIS II. The indicator is that all participating Member States should successfully migrate their data and systems.

5.4. Method of Implementation (indicative)

Centralised Management

directly by the Commission

indirectly by delegation to:

- executive Agencies
 - bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
 - national public-sector bodies/bodies with public-service mission
- Shared or decentralised management***
- with Member states
 - with Third countries
- Joint management with international organisations (please specify)***

Relevant comments: N/A

6. MONITORING AND EVALUATION

6.1. Monitoring system

Progress will be assessed at regular points and performance measured against required standards and pre-set criteria. This is handled in particular through a Quality Assurance contractor.

6.2. Evaluation

6.2.1. Ex-ante evaluation

The assessment and comparison report on the further direction of SIS II submitted to the Council by the Presidency and the Commission provides an *ex ante* evaluation. On this basis, the Council Conclusions of 4-5 June 2009 note the completion of the SIS II repair and analysis period, during which a considerable number of known issues and bugs have been fixed and solutions have been either designed or implemented to remedy them. The Council concluded that the development of SIS II should continue on the basis of the current SIS II project and that SIS 1+RE would be retained as a contingency plan.

6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

The Global Programme Management Board is being set up with the present proposals, thus taking into account the experience from managing development of SIS II on the basis of working structure as it had been established by the instruments now being amended.

6.2.3. Terms and frequency of future evaluation

The future evaluation will take place on the basis of 6monthly "milestones" as laid down in the Council Conclusions of 4-5 June 2009.

7. ANTI-FRAUD MEASURES

If any additional contracts should prove necessary, the Commission procedures for the award of contracts will be applied, ensuring compliance with Community law on public contracts.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	Type of output	Av. cost	Year 2010		Year 2011		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE: continuing development of SIS II until migration								
Action: continuing technical progress towards migration								
- Output 1	Main Development Contract schedule extension			1.560		2.340		3.900
- Output 2	Quality Assurance schedule extension			0.648		0.972		1.620
- Output 3	Global Programme Management and Test Coordination			0.528		0.852		1.380
- Output 4	ICD contingencies			1.000		0		1.000
- Output 5	Scalability contingencies			0.200		0		0.200
- Output 6	Change request contingencies			0.300		0.200		0.500
- Output 7	Development-related sTESTA contingencies			0.500		0.150		0.650
- Output 8	Security audits			0.420		0.280		0.700
- Output 9	Strasbourg personnel costs (6 personnel)			0.360		0.540		0.900
- Output 10	Studies			0.750		0.500		1.250
- Output 11	Coaching and training			0.300		0.450		0.750
TOTAL COST				6.566		6.284		12.850

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		Year 2010	Year 2011				
Officials or temporary staff ³² (XX 01 01)	A*/AD	24	24				
	B*, C*/AST	9	9				
Staff financed ³³ by art. XX 01 02		17	17				
Other staff ³⁴ financed by art. XX 01 04/05							
TOTAL		50	50				

8.2.2. Description of tasks deriving from the action

- Programme Coordination
- Project Management
- Technical Management
- Evaluation and Reporting
- Public procurement, contract and financial management

8.2.3. Sources of human resources (statutory)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

³² Cost of which is NOT covered by the reference amount.

³³ Cost of which is NOT covered by the reference amount.

³⁴ Cost of which is included within the reference amount.

8.2.4. *Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

N/A

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year 2010 (pro rata from 1 July)	Year 2011 (pro rata until estimated migration time)				
Officials and temporary staff (XX 01 01)	2.013	3.020				
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)	0.580	0.870				
Total cost of Human Resources and associated costs (NOT in reference amount)	2.593	3.890				

Calculation– *Officials and Temporary agents*

Reference should be made to Point 8.2.1, if applicable

AD/AST – 122,000 EUR per year * 33 persons = 4.026 mEUR

Calculation– *Staff financed under art. XX 01 02*

Reference should be made to Point 8.2.1, if applicable

Contractual staff (art 18 01 02 01 01): 64,000 EUR per year * 9 persons = 0.576 mEUR

National experts (art 18 01 02 01 03): 73,000 EUR per year * 8 persons = 0.584 mEUR

8.2.6. Other administrative expenditure not included in reference amount

EUR million (to 3 decimal places)

	Year 2010	Year 2011					TOTAL
XX 01 02 11 01 – Missions	0.082	0.099					0.181
XX 01 02 11 02 – Meetings & Conferences	0.095	0.142					0.237
2 Total Other Management Expenditure (XX 01 02 11)	0.177	0.241					0.418
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0.177	0.241					0.418

Missions include visits to 27 participating States for 1 person each year and weekly trips to Strasbourg for 2 persons up to the estimated time of migration.

The needs for human and administrative resources shall be covered within the allocation that can be granted to the managing DG in the framework of the annual allocation procedure in the light of budgetary constraints.