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from : the Presidency + incoming Presidencies (FR/CZ/SE)  
to: Schengen Evaluation Working Party

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Subject: Schengen evaluation - Future monitoring of the correct application of the acquis  
in participating States  
- Proposal for a Schengen Evaluation Programme 2008-2013

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**1 - The future of Schengen evaluations : Which system? What is at stake?**

Member States agree on the following two points:

- The first part of SCHEVAL's mandate - the evaluation of candidate states prior to their entry into the Schengen system - must continue to exist and be applied in future enlargements;
- The second part of the mandate – enabling to check the correct application of the Schengen arrangements by the Member States - should be rendered more efficient in light of recent developments.

The Hague Programme furthermore confirmed the need to supplement the existing Schengen evaluation mechanism.

Reflections on the evolution of the Schengen evaluation system are not new. Since 2000, the idea of conducting evaluations of Member States and evaluations of specific topics involving several Member States or specific regions simultaneously, has been discussed in the SCHEVAL WP framework. These evaluations could help highlight best practices. Two audits were proposed at the time: an audit of the SIRENE bureaux, the other to be chosen from a range of themes (police cooperation, fight against drugs, review of visa policy, fight against illegal immigration and networks, etc.).

Today, whilst fully respecting SCHEVAL's mandate as laid down in SCH / ex-COM (98) 26 def., an evolution towards a more integrated approach of Schengen evaluations is necessary as a result of several factors:

- The enlargement of the Schengen area to 24 Schengen Member States, resulting in a vast area stretching from the Atlantic Ocean to the Baltic Sea (and soon to the Black Sea);
- New challenges in the field of security of the European space linked to the development of increasing immigration pressure and organised crime;
- An evolutionary process which provides an opportunity for involvement of FRONTEX and EUROPOL, and for ways of improving expertise and resources.

Thus, in this area of free movement in which the implementation of the Schengen Convention has reached a degree of maturity and in light of the new threats arising e.g. from organised crime, it would be desirable to render the working methods and activities of the SCHEVAL WP more efficient.

In this context, and taking into account the provisions of Article 64 (1) TEC, two complementary goals should be pursued:

- ensuring the correct application of the Schengen acquis in the Member States and
- taking into account, in the general context of the evaluation system, the new threats.

## 2 - Towards a global system of evaluation combining verification of the application of the Schengen acquis and thematic/regional evaluation based on threat analysis

The replies to the questionnaire sent by the Slovenian Presidency, the various contributions from Member States and the discussions during the meetings of the SCHEVAL WP, led to agreement on the following three fundamental points:

- The principle of evaluation/verification of the correct implementation/application of the Schengen acquis by Member States must be maintained;
- Since verification of the correct application of the Schengen acquis may no longer be sufficient in the light of new developments threatening the European security area, cross-cutting issues affecting a specific region or the evaluation of a specific theme/phenomenon could complement country assessments;
- The strategic analysis of threats, posed in particular by illegal immigration, crossborder organized crime and terrorism, could support such thematic and/or regional Schengen evaluations.

Taking into account these three fundamental elements and in order to render the Schengen evaluation system even more efficient, the SCHEVAL WP should analyse threats with the help of studies provided by relevant European bodies such as EUROPOL (OCTA), FRONTEX etc. and any other relevant analyses submitted by Member States or other stakeholders.

Based on this preparatory work, experts appointed by the SCHEVAL WP may assess (on the spot), using information provided by other stakeholders if and where necessary, existing systems in the Member States (regions) concerned and identify practices which could constitute a best practice (in providing an effective response to the identified threats) worthy of sharing with other Member States.

It follows therefore that:

- on the one hand, any decision to launch a thematic and/or regional evaluation should be based on a risk assessment;
- on the other hand, the aim should be to identify best practices.

**In conclusion, the evaluation of Member States' correct application of the Schengen acquis should be organized according to a schedule comprising, in addition to the evaluation of Schengen candidate states, the following three parts:**

- **Continuation of the "classic" evaluation on a country-by-country basis, starting with those Member States which have not been evaluated for a number of years and which require evaluation of all parts of the Schengen acquis (see Annexes 1 and 2).**
- **Supplementary thematic and/or regional evaluations involving one or more Member States based on risk analyses. The identification of the themes and countries or regions to be evaluated will be the subject of discussions and agreement in the SCHEVAL Working Party, supported by and reflecting analyses of relevant stakeholders (e.g. Member States, the Commission, FRONTEX, EUROPOL etc.); a schedule can be included in each Presidency programme ensuring the necessary flexibility.**
- **Full or partial evaluation of Member States' public authorities responsible for the application of the Schengen acquis which have undergone a fundamental reorganisation, can be adopted as part of a Presidency Scheval programme in case of need.**

### **3 - Work Programme for the operational implementation of the new Schengen evaluation system**

Considering the stakes, the complexity of the issue and the prospect of short-term institutional developments, it would be desirable to define a work programme providing for the necessary flexibility (i.e. allowing for amendments and for sufficient time to prepare) namely in the light of the proposals currently being drafted by the Commission on the subject.

The work programme should be based on the assumption that:

- the evaluation of applicants for Schengen membership should continue in accordance with the current mandate;
- an indicative five-year programme of ongoing "classic" evaluations of Member States can be adopted immediately;
- a *transitional* regional and/or thematic evaluation schedule, based on work already completed, can be included as part of the programme of each Presidency;
- reflections/discussions should be initiated on ways of consulting EUROPOL, FRONTEX and other stakeholders and of taking into account threat assessments;

- evaluations should contribute to the drafting (e.g. in the case of data protection) and updating of Schengen Catalogues of Recommendations and Best Practices;
- an evaluation could be carried out also in a Member State which has undergone a fundamental reorganisation, e.g. border management

It goes without saying that all Schengen Member States may be subjected to an evaluation.

In contrast to the “classic” evaluation following a fixed schedule, the regional/thematic evaluations should not a priori exclude any Schengen Member State, as these evaluations would be focused on a specific issue resulting from risk analyses. The thematic/regional evaluation should however not duplicate an assessment carried out previously by experts in the context of a “classic” evaluation. This means that a proper balance must be ensured in all respects between thematic/regional and country evaluations to avoid overlaps and repetitions.

At the same time, thought should be given to:

- How to set up expert networks to suit the requirements (in terms of skills, establishing common criteria for the selection of experts, limiting the number of experts taking part in a mission - particularly in the case of thematic/regional evaluations -, enhancing expertise through training, etc.);
- How to consult other stakeholders e.g. (sources from) Member States / EUROPOL / FRONTEX etc. and how to use this information.

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**Historical overview of Schengen evaluations 1999-2005**

	<b>(Partial) Accession/evaluation of MS and/or thematic evaluations</b>	<b>Conclusions (doc. references)</b>	<b>adopted at</b>
<b>1999</b>	Accession of GR		
	DE	doc. 12632/99	JHA December '99
<b>2000</b>	Accession of NORDIC COUNTRIES + GR		
<b>2001</b>	Accession of NORDIC COUNTRIES		
	Evaluation of SIRENE bureaux	doc. 12844/2/01	JHA December 2001
<b>2002 *</b>	FR	doc. 8902/1/02	JHA June 2002
	BENELUX (excluding Polcoop)	doc. 15452/02	JHA December 2002
<b>2003</b>	ES	doc. 8651/2/03 REV 2	JHA June 2003
	PT	doc. 14243/1/03 REV 1	JHA November 2003
<b>2004</b>	AT	doc. 13293/04	JHA October 2004
	UK Polcoop (Jan 2004) UK Data Protection (May 2004)	doc. 15149/04 (Council Decision on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain and Northern Ireland)	JHA December 2004
	IT	doc. 14420/3/04 REV 3	JHA June 2005
<b>2005</b>	GR	doc. 10942/1/05 REV 1	JHA December 2005
	NORDIC COUNTRIES	doc. 5016/06 SCHEVAL 2 (NO) doc. 5017/06 SCHEVAL 3 (DK) doc. 5018/06 SCHEVAL 4 (FIN) doc. 5019/06 SCHEVAL 5 (ISL) doc. 5020/06 SCHEVAL 6 (SE)	JHA June 2006

\* IRL: Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis

## Proposed calendar of Schengen evaluations for 2008-2013

Year	Full evaluation of Schengen states on a country-by-country basis		Evaluation based on a thematic or regional approach or other <sup>1</sup>
	Evaluation of states already applying the Schengen acquis (mandate 2) <sup>2</sup>	Evaluation of candidate states and states not yet evaluated (mandate 1) <sup>3</sup>	
2008	<i>see 3rd column</i>	CH	Transitional period <sup>4</sup>
2009	BE, DE, FR, LU, NL	BG, RO	
2010	AT, ES, GR, IT, PT	BG, RO	Taking into account the CION proposals based on the Hague Programme.
2011	DK, FI, IS, NO, SE		
2012 - 2013	EE, LT, LV, PL, CZ, HU, MT, SI, SK		

<sup>1</sup> Whilst avoiding duplication with country-by-country evaluations. This point could also include evaluations of MS' public authorities responsible for the application of the Schengen acquis which have undergone a major reorganisation.

<sup>2</sup> Order to be agreed by the WP on the basis of a proposal submitted by the incoming Presidency at the end of the preceding Presidency at the latest (i.e. at least 6 months ahead of time).

<sup>3</sup> Some other states must be envisaged also, subject to the fulfilment of a number of conditions, e.g.

- CY: SIS II, submission of declaration of readiness;
- FL: subject to entry into force of the Schengen Association Protocol;
- UK: SIS II
- IRL: subject to adoption of a decision on putting into effect of Schengen acquis, submission of declaration of readiness.

<sup>4</sup> Period before implementation of the new Commission proposals requested by the Hague programme, during which the following activities can be carried out:

- adapt catalogues of recommendations and BP in light of nMS evaluations (permanent task);
- define common criteria for: a) nomination & training of experts b) consultation & use of risk analyses and c) deciding on a theme (in 2008);
- discuss and agree on programme based on a Presidency proposal (permanent task).