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from: the Cyprus, Greek, Italian and Maltese Delegations

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Subject: Combating illegal immigration in the Mediterranean

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Delegations will find below the paper concerning this subject circulated at the informal meeting of the JHA Ministers held in Prague on 15 January 2009.

## CYPRUS, GREECE, ITALY AND MALTA PAPER

The Ministers of the Interior of Cyprus, Greece, Italy and Malta have embarked on a common initiative with a view to raise awareness and recommend action in an EU context related to the challenges posed by illegal migration and asylum. Furthermore, they have also highlighted other issues of common interest, convinced that security in the Mediterranean region is directly linked to the security of the European Union as a whole.

The influx of illegal immigrants is clearly a cause for concern, as it results in considerable strain on these countries' admission resources and asylum systems. It is therefore deemed necessary to take urgent action with a view to put into practice the Union's principle of solidarity and fair burden sharing.

Such action is not only required with a view to ease the pressure on the countries concerned, but also to put an end to the loss of life at sea that is a direct consequence of the smuggling networks facilitating illegal migration across the Mediterranean sea. It will also send the necessary signal that illegal entry into Europe, which among others, jeopardizes the credibility of policies on legal immigration, is not a viable option.

The rise of illegal migrants passing through transit countries continues to penalize the situation of those countries which represent the south and south-eastern border of the European Union.

The Mediterranean region is also increasingly becoming a transit area for the influxes of people in need of international protection coming from crisis regions such as the Horn of Africa, Nigeria, Afghanistan, Iraq and the Palestinian Territories (West Bank and Gaza Strip).

It should also be taken into consideration that the Mediterranean region is becoming a transit area for drug and other illicit trafficking from Africa and the East. It is furthermore acknowledged that it is highly likely that illicit proceeds from these activities might also finance terrorism.

The European Pact on Immigration and Asylum, in a spirit of mutual responsibility and solidarity between Member States and of partnership with Third countries, gave new impetus to the definition of common immigration and asylum policy that will take account of both the collective interest of the European Union and of the specific needs of each Member State, especially those countries which face specific and disproportionate pressures.

The European Council of 15 and 16 October 2008 has adopted the Pact and has reaffirmed that the fundamental principles set out in the Pact are to be reflected in a series of measures which will have to be implemented immediately at both EU and national levels.

Moreover, these principles will also be taken into account in the future work programme of the European Union in this field, which will be proposed by the Commission in May 2009.

The attention on migration from the Mediterranean has been reaffirmed in the JHA Council Conclusions of 27-28 November, concerning the Global Approach to migration.

The Conference on the extension of the Global Approach to the East and South-East scheduled for April 2009 will represent a good opportunity to resume the debate on the Mediterranean region as well.

Therefore, in this context, Cyprus, Greece, Italy and Malta call for some priorities to be assigned to actions relating to these particular fields.

The effective and satisfactory implementation of existing agreements, whether Community readmission agreements or other obligations, such as those resulting from the Cotonou Agreements, must be given particular attention in the context of the overall relationship with the third country concerned.

Cyprus, Greece, Italy and Malta consider that the further conclusion of EC Readmission Agreements with key countries of origin and transit in Africa, the Near and Middle East and elsewhere is an urgent necessity with a view to deliver a message against the viability of illegal immigration and to provide Member States with a practical instrument for implementing returns. Cyprus, Greece, Italy and Malta call for intensifying the Union's efforts with a view to conclude the ongoing negotiations with third countries and to open negotiations with key countries of origin and transit. Unless success is registered in this area, the Union's efforts in the field of legal migration will inevitably be compromised. The Ministers, therefore, consider that the Commission should be given the necessary mandates, as well as, if necessary, the additional resources with a view to negotiate and conclude such agreements. Furthermore action should be taken to invoke the implementation of the existing Article 13 of the Cotonou agreements in cases where it is applicable, as well as to strengthen its provisions during the negotiations on the new ACP Agreement that is to replace it.

The Council should also consider enacting legislative provisions with a view to establish a European "Laissez Passer"<sup>1</sup> issued to illegally residing third-country nationals with a view to facilitate readmission to third countries. Action should be taken to incorporate the European "Laissez Passer" in the Union's Readmission Agreements to render it binding to Third Countries concerned. At the same time, Cyprus, Greece, Italy and Malta would also seek to jointly and severally conclude agreements with other countries of origin and transit with a view to ensure that the framework for effecting returns would be as comprehensive as possible. To this end, the Ministers agree to explore ways to implement this in practice.

Cyprus, Greece, Italy and Malta would seek to cooperate with a view to implementing practical measures to ensure the return of illegal immigrants, particularly in relation to the procurement of travel documents for returning illegal immigrants and the organisation of joint flights. Furthermore reciprocal assistance for the development of diplomatic cooperation with key countries of origin to facilitate readmission procedures will also be enhanced. Other Member States will also be invited to cooperate in this regard.

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<sup>1</sup> The existing travel document adopted by Council Recommendation of 30 November 1994 concerning the adoption of a standard travel document for the expulsion of third country nationals, should be reviewed.

Cyprus, Greece, Italy and Malta urge the Council to take the necessary measures with a view to ensuring implementation of cooperation with the countries of origin and of transit, under the Global Approach to Migration, in order to control illegal immigration. Cracking down on organized crime and smuggling and trafficking of human beings as well as the fight against corruption are the key to the prevention and reduction of illegal immigration. Particular emphasis should be assigned to promoting synergies and bringing about common efforts and programs aiming to protecting the victims, organizing a common network of police cooperation for the exchange of relevant information and, if necessary, undertaking common operations.

Cyprus, Greece, Italy and Malta consider that the way ahead lies in the strengthening of Frontex and in the continuation of Joint Operations. Frontex will be really effective in the Mediterranean, only if efforts are intensified vis-à-vis complementary actions such as readmission and cooperation with key third countries.

Cyprus, Greece, Italy and Malta therefore, urge the Council to provide Frontex with the necessary financial resources and the Member States to provide it with the operational resources. In particular, it is important to ensure that assets committed to Frontex operations are indeed made available when the need arises. Analogous support should be given to Member States responsible for the assumption of burdens of intercepted people during joint operations.

Cyprus, Greece, Italy and Malta favourably consider the setting up of specialised offices that would enable Frontex to better assess the specific situations in borders of particular sensitivity.

The present illegal immigration scenario in the Mediterranean has often required Cyprus, Greece, Italy and Malta to rescue persons at sea even when this fell outside their legal areas of responsibility. Whereas Cyprus, Greece, Italy and Malta are willing to continue to overstep their responsibilities when necessary with a view to save lives at sea, in view of the migratory pressures faced by these same Member States, it is considered that other Member States should also shoulder part of this burden by assuming long-term responsibility for some of the persons rescued. In particular, such solidarity could be expressed in the context of rescues conducted during Frontex operations.

Initiatives demonstrating and implementing effective solidarity between Member States, by mobilizing existing EU programs and financial instruments, should be undertaken. Practical cooperation and coordinated synergies should also be pursued with a view to enhance the capacity of the Member States to protect the lives of illegal migrants and to regulate migratory flows entering from sea or land borders.

Cyprus, Greece, Italy and Malta call on the Council to include effective provisions on cooperation in the field of external border control and in combating illegal immigration in agreements with key third countries. It is necessary that diplomatic efforts with strategic key countries to encourage participation in operations and ensure effectiveness thereof continue to be pursued.

Cyprus, Greece, Italy and Malta urge the Council to take into account specific problems faced by those countries responsible for the EU's external borders with regard to the systematic influx of illegal migrants crossing through the transit countries, or those particular areas such as the area of the Republic of Cyprus which is not under the effective control of the Government of the Republic of Cyprus.

Cyprus, Greece, Italy and Malta also call for immediate action with a view to assisting neighbouring countries in the areas of management of mixed migration flows, border control and the fight against illegal migration. The Ministers welcome the Council Conclusions on the evaluation of the Global Approach to Migration and the corresponding recent Commission Communication as a positive step forward.

Cyprus, Greece, Italy and Malta assign particular importance to the establishment of the European Asylum Support Office, and urge the Council and the Commission to act expeditiously with a view to ensuring that this Office is established at the earliest possible.

With the view to improving the capacity of the front-line Member States in the areas of reception and protection of asylum seekers, Cyprus, Greece, Italy and Malta should be assisted by the granting of resources and additional forms of support in order to address the consequences of overburdened national asylum systems.

Initiatives to amend the Dublin II Regulation should be supported and take into consideration that the system of responsibility allocation provided by the existing Regulation, results in added burden on front-line Member States. Therefore, the existing proposals to amend this Regulation should address this system so as to ensure a more equitable allocation of responsibility for the examination of asylum applications.

The Commission has already presented a document for discussion at technical level proposing methods for the implementation of intra-EU reallocation of persons under international protection both in the short term as well as in the longer term. Cyprus, Greece, Italy and Malta look favourably on this document as it envisages that action promoting intra-EU reallocation can be taken in the short term. In this regard, Cyprus, Greece, Italy and Malta welcome the inclusion by the Commission of intra-EU reallocation as one of the priorities under the ERF Community Actions for 2008, which means that each project would be eligible to a co-financing rate of 90%.

As a matter of principle Cyprus, Greece, Italy and Malta prefer a more formalized approach to intra-EU reallocation in the longer term which may also include asylum seekers, although at present the utmost priority is to start implementing intra-EU reallocation under existing arrangements as early as possible.

Cyprus, Greece, Italy and Malta, besides urging the Commission to keep up its momentum in relation to intra-EU reallocation, urge the other Member States to consider reallocating beneficiaries of international protection from Member States facing specific and disproportionate pressures due to their geographical or demographic circumstances. Furthermore, they emphasise that the proposed Directive amending Directive 2003/109/EC<sup>2</sup> to extend its scope to beneficiaries of international protection, will give beneficiaries of international protection who have long term residence status the right to reside in Member States other than the one which granted them international protection. Similarly they encourage Member States to facilitate the exercise of this right, in particular, to reallocation of such persons from those Member States faced with specific and disproportionate pressures.

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<sup>2</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long term residents

Cyprus, Greece, Italy and Malta consider it important for the EU to strengthen cooperation with the office of the United Nations High Commissioner for Refugees to ensure better protection for people outside the territory of the EU who request protection. Therefore they invite the Commission to present proposals for cooperation with third countries in order to strengthen the capacities of their protection systems. Moreover, cooperation with the International Organisation for Migration (IOM) and other international organisations should be strengthened with the establishment of new regional offices in sensitive areas of the southern and south-eastern Mediterranean, which can provide practical assistance through various programmes concerning, inter alia, voluntary return of migrants.

Moreover, the experience gained from the ongoing regional protection programmes should be extended to other origin/transit areas of people in need of protection in Africa and the Middle East.

Cyprus, Greece, Italy and Malta consider it important to increase anti-drug activities and the hindrance to drug routes through the central and east Mediterranean. To this end Cyprus, Greece, Italy and Malta, support the creation of a Centre for Coordination of anti-drug and other anti-organised crime activities in this area.

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Minister of the Interior  
of the Republic of Cyprus

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Vice Minister of the Interior  
of the Republic of Greece

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Minister of the Interior  
of Italian Republic

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Minister of Justice  
and Internal Affairs of  
Malta

Rome, 13 January 2009