

14183/02 (Presse 350)

GENERAL AFFAIRS AND EXTERNAL RELATIONS *

2463rd Council meeting

- GENERAL AFFAIRS -

Brussels, 18 November 2002

President : **Mr Per Stig MØLLER**

Minister for Foreign Affairs of the Kingdom of
Denmark

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14183/02 (Presse 350)

CONTENTS¹

PARTICIPANTS.....	4
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ITEMS DEBATED

PROGRESS OF WORK IN OTHER COUNCIL CONFIGURATIONS.....	6
PREPARATION OF THE EUROPEAN COUNCIL IN COPENHAGEN.....	7
– ANNOTATED DRAFT AGENDA.....	7
– ENLARGEMENT	8
– REFORM OF THE COUNCIL PRESIDENCY	9
COMMISSION'S LEGISLATIVE AND WORK PROGRAMME FOR 2003	11
FOLLOW-UP TO THE EUROPEAN COUNCIL IN BRUSSELS (24-25 October 2002)	11
TERRORISM: FOLLOW-UP TO THE ACTION PLAN	11

ITEMS APPROVED WITHOUT DEBATE

EUROPEAN COUNCIL - Brussels, 24-25 October 2002

EXTERNAL RELATIONS

– New Neighbours Initiative - Council conclusions.....	I
– Sri Lanka - Council conclusions.....	II
– Relations with the Western Balkans	III
– Association Agreement EU-Chile	III
– EU-Africa Dialogue - Ministerial Meeting, Ouagadougou (28 November 2002).....	III
– Code of conduct on Arms Exports - 4th Annual Report.....	III

COUNTRIES OF CENTRAL AND EASTERN EUROPE

– Bulgaria - Establishment of a Joint Consultative Committee.....	IV
– Bulgaria- Participation in the Fiscalis programme	IV

¹ ▪ Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
 ▪ The documents whose references are given in the text are available on the Council's Internet site <http://register.consilium.eu.int/>
 ▪ Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the above mentioned Council Internet site or may be obtained from the Press Office.

ENLARGEMENT

- Preparation of Accession Conferences IV
- Preparation of the next Accession Conferences with Hungary and Slovakia - Agriculture IV
- Arrangements for the Interim period V

EXTERNAL RELATIONS / JUSTICE AND HOME AFFAIRS

- Intensified cooperation on the management of migration flows with third countries - Council conclusions V

DEVELOPMENT

- Annual report on the EC's development policy and the implementation of external assistance 2001 -
Council conclusions VIII
- Indigenous peoples - Council conclusions IX

COMMODITIES

- International Cocoa Agreement XI
- Relocation of the International Cocoa Organisation XI
- International Coffee Agreement 2001 XII

ENVIRONMENT

- World Summit on Sustainable development: Review of preliminary follow-up in other Council settings -
Conclusions XII

JUSTICE AND HOME AFFAIRS

- "HNS Convention" on liability and compensation for damage in connection with the carriage of
hazardous and noxious substances by sea XIII

ECOFIN

- Protection of the Communities' financial interests and the fight against fraud - Council conclusions XVII

ENERGY

- Use of biofuels in transport XIX

PARTICIPANTS

The Governments of the Member States and the European Commission were represented as follows:

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Denmark :

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Minister for Foreign Affairs

Minister for Refugees, Immigration and Integration and Minister without Portfolio with responsibility for European Affairs
State Secretary for Foreign Affairs

Mr Friis Arne PETERSEN

Germany :

Mr Joschka FISCHER

Federal Minister for Foreign Affairs and Deputy Federal Chancellor

Mr Hans Martin BURY

Minister of State, Ministry of Foreign Affairs

Greece :

Mr Anastasios GIANNITSIS

Deputy Minister for Foreign Affairs

Spain :

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Secretary of State for Foreign and Commonwealth Affairs

Parliamentary Under-Secretary of State, Foreign and Commonwealth Office

* * *

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Mr Günter VERHEUGEN

Mr Christopher PATTEN

Member

Member

* * *

General Secretariat of the Council :
Mr Javier SOLANA

Secretary-General/High Representative for the CFSP

ITEMS DEBATED

PROGRESS OF WORK IN OTHER COUNCIL CONFIGURATIONS

As part of the General Affairs Council's role of ensuring coordination of Council activities and consistency with one another and with the general objectives of the Union, the Council took stock of the most important files being dealt within other Council configurations on the basis of a Presidency report (*doc. 14057/02*). The report singles out a number of topics being considered in the Environment, ECOFIN and Education, Youth and Culture Councils. The Presidency in particular drew the attention of the Council to some decisions reached at the ECOFIN Council meeting on 5 November which are important in the context of enlargement, in particular the modifications to the EIB's statute and the increase to the ECB's capital and foreign exchange reserves, and the progress made at that meeting towards implementing the Financial Services Action Plan.

PREPARATION OF THE EUROPEAN COUNCIL IN COPENHAGEN**– ANNOTATED DRAFT AGENDA**

The Council endorsed the annotated draft agenda prepared by the Presidency (*doc. 14257/02*) in order to prepare the deliberations of the Copenhagen European Council on 12 and 13 December.

The Presidency intends to limit the agenda to two items: enlargement and the functioning of the Council in view of enlargement. The European Council will furthermore be updated on the work of the Convention on the future of Europe by the President of the Convention and will have its customary meeting with the President of the European Parliament.

On enlargement, the European Council should take all necessary decisions to conclude negotiations with the 10 candidate countries identified at the Brussels European Council in October (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, Slovenia), decide on a detailed roadmap with timetables and increased pre-accession assistance for Bulgaria and Romania, as well as the next stage of Turkey's candidature.

Under the heading functioning of the Council, the European Council will discuss initial reports from the Presidency on the reform of the Council Presidency and on the use of languages in the context of enlargement.

– ***ENLARGEMENT***

The Council discussed the way ahead with a view to concluding accession negotiations with Cyprus, Malta, Hungary, Poland, Slovakia, Latvia, Estonia, Lithuania, the Czech Republic and Slovenia in time for the European Council in Copenhagen on 12 and 13 December, in accordance with the decisions taken by the European Council in Brussels in October.

Taking into consideration the discussion at the Ministerial meeting with these countries in the margins of the Council, the Council decided that the accession of these countries to the Union would take place on 1 May 2004. Accordingly, it was confirmed that these countries will participate as Member States in the 2004 elections for the European Parliament. The Commissioners from the new Member States will join the Commission upon accession. It was also confirmed that, in line with Article 8 of Declaration 23 attached to the Treaty of Nice, the acceding States will fully participate in the forthcoming Intergovernmental Conference, while candidates which are still negotiating will participate as observers.

With a view to concluding negotiations with these ten candidates, the Presidency with the help of the Commission will elaborate an offer to each candidate on all outstanding issues, including on those with a financial impact. This offer, while providing for the necessary flexibility towards the needs of the candidates, will respect the *acquis*, the ceilings set at Berlin for financing enlargement and the decisions taken by the European Council in Brussels.

Furthermore, the Council took note of a presentation by the Commission of its proposal for roadmaps and increased financial assistance for Bulgaria and Romania in line with the decisions of the European Council in Brussels, with a view to preparing the relevant decisions to be taken by the European Council at Copenhagen.

– ***REFORM OF THE COUNCIL PRESIDENCY***

In preparation of the European Council, the Council held a broad debate on the reform of the Council Presidency in view of the initial report to be presented by the Presidency to the Copenhagen European Council in December, in line with the mandate given at the Seville European Council in June.

Concluding the debate, the President stated that the discussion had shown support for the Presidency's presenting the draft report as a basis for the discussions at the European Council and continuing work on possible decisions to be taken at that occasion. While several Member States indicated a preference for Model 1 (cf. below) referring also to the broader debate on the future institutional structure of the Union within the framework of the Convention and the subsequent Intergovernmental Conference, others underlined that it would be necessary to consider measures going beyond that.

With the challenges posed by enlargement to the functioning of the Council, the European Council started its reform process at Helsinki in December 1999. The discussion continued in Göteborg and Barcelona on the basis of reports presented by the Secretary General/ High Representative. The European Council in Seville in June 2002 subsequently adopted a set of specific measures to be implemented without amendment to the Treaties. It also expressed readiness to continue the discussions, requesting the Danish Presidency to present an initial report to the December European Council.

The draft report prepared by the Presidency contains two parts. The first setting out the main issues having arisen from the discussions so far, the second describing possible approaches to Presidency reform in particular in the form of three models.

Model 1 would maintain the main features of the present rotating Presidency while extending the cooperation between successive presidencies even beyond what has been decided in Seville. There would be a systematic obligation to share and delegate power.

Model 2 consists of a combination of an "institutional" Presidency for the Council's co-ordinating chain (General Affairs and External Relations Council and Coreper), to be chaired for instance by the SG/HR or his representatives, with a system of either rotating Presidency or elected presidents for most of the other Council configurations and preparatory bodies.

Model 3 is based on the idea of the Team Presidency. The team could be composed of 3-5 members, selected according to criteria such as geography and size, for a given period of time (1 ½ or 2 ½ years) to be renewed either at fixed intervals or through a "rolling system". The presidency of Council configurations would be shared between the members of the team. As a variation it would be possible to maintain in addition the six-monthly component for the purposes of the co-ordinating chain (GAERC + Coreper).

The Presidency also proposes the strengthening of the role of the High Representative to respond to the particular problem posed by the Presidency function in the area of external relations. Proposals include from chairing certain Council meetings, representing the Union in international organisations or in meetings with third countries, negotiating international agreements in the area of CFSP/ESDP, submitting proposals, informing the Parliament, to supervising EU special envoys.

Finally, the ideas put forward by a number of Member States on an elected President of the European Council are set out. This variant could be combined with models 2 or 3. The European Council President would be elected for a longer period (of up to 5 years), would prepare and preside the European Council and represent the EU in relations with third countries at Heads of State level.

COMMISSION'S LEGISLATIVE AND WORK PROGRAMME FOR 2003

The Council took note of a presentation by the Commission of its legislative and work programme for the year 2003 (*doc. 13905/02*). It is the first programme to be prepared following an in-depth dialogue between the three Institutions, Commission, Council and European Parliament, further to the presentation of the Annual Policy Strategy in February 2002.

The Commission's work programme is built around three priorities: making enlargement a success, security and stability (fight against terrorism, immigration policy, new neighbours initiative) and a sustainable and inclusive economy (implementation of the EU's sustainable development strategy, the Lisbon strategy and Doha Development Agenda).

FOLLOW-UP TO THE EUROPEAN COUNCIL IN BRUSSELS (24-25 October 2002)

The Council was informed by the Presidency on the outcome of the recent EU-Russia Summit on 11 November, in particular as far as the decisions reached for facilitating transit between Kaliningrad and mainland Russia are concerned (*see also Press Release, doc 13970/02, Presse 347*).

TERRORISM: FOLLOW-UP TO THE ACTION PLAN

The Council took note of the roadmap on the implementation of the Action Plan on the fight against terrorism (*doc. 13909/1/02*). This roadmap, established in the wake of the terrorist attacks of 11 September 2001 is updated at regular intervals. The latest update covers the period July to November 2002. The roadmap points to progress made in the fields identified by the Action Plan and the next steps for implementing the latter.

ITEMS APPROVED WITHOUT DEBATE

EUROPEAN COUNCIL - Brussels, 24-25 October 2002

The Representatives of the Governments of the Member States, meeting within the Council, adopted a Decision concerning the conclusions of the European Council held in Brussels on 24 and 25 October 2002. They agreed that point 12 "Direct Payments" of the conclusions of the European Council results in the following figures:

HEADING 1A EU-25 current prices

million Euro

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
TOTAL EU-25 ceiling	42 979	44 474	45 306	45 759	46 217	46 679	47 146	47 617	48 093	48 574

EXTERNAL RELATIONS

New Neighbours Initiative - Council conclusions

(doc. 14078/02)

- "1. With the forthcoming biggest ever enlargement in its history, the EU will have borders with a number of new neighbours. Enlargement presents an important opportunity to take forward relations with the new neighbours of the EU which should be based on shared political and economic values.
2. In particular, the EU wishes to put in place further conditions which would allow it to enhance its relations with its Eastern European neighbours: Ukraine, Moldova and Belarus. There is a need for the EU to formulate an ambitious, long-term and integrated approach towards each of these countries, with the objective of promoting democratic and economic reforms, sustainable development and trade, thus helping to ensure greater stability and prosperity at and beyond the new borders of the Union.
3. The initiative will be based on a differentiated approach considering each country's distinct political and economic situation, potential and aims. The development of relations with the countries concerned will, of course, depend on their implementation of further reforms and their willingness to respect international commitments and common values on democracy, the rule of law and human rights.

4. This initiative should be seen in conjunction with the EU's strong commitment to deepening co-operation with the Russian Federation, which is a key partner.
5. The EU also encourages the further development of cross-border co-operation, including the fight against organised crime and illegal immigration, and regional co-operation with and among neighbouring countries in Eastern Europe. Furthermore, co-operation with relevant international organisations in the area, such as OSCE and the Council of Europe, will be an important element in the implementation of the initiative. In this respect, Candidate countries will play an important role.
6. Based on experience with this initiative, the Council might subsequently reflect on those elements which could be relevant for relations with partners in other bordering regions.
7. On this basis, the Commission and the High Representative are invited to prepare as soon as possible more detailed proposals on how to take this initiative further. Candidate countries will be consulted in this work."

Sri Lanka - Council conclusions

(doc. 13976/1/02 REV1)

"The Council confirmed its support for the peace process between the Government of Sri Lanka and Liberation Tigers of Tamil Eelam (LTTE) and welcomed the positive and conciliatory approach demonstrated by the two parties as well as their strong commitment to end the armed conflict that the people of Sri Lanka have been suffering from over 19 years.

The Council welcomed the important steps taken so far by the two parties, in particular the commencement of peace talks in Thailand. Furthermore, the Council welcomed the parties' determination to consolidate the Ceasefire Agreement and the decision to initiate measures to improve the security situation, inter-ethnic cooperation and respect for human rights in the North and East.

The Council expressed its strong support for the Norwegian government's facilitating role in the peace process. Any EU engagement would be closely coordinated with other international efforts, in particular with Norway.

While underlining the need to take into account the legitimate aspirations of all communities in Sri Lanka, the Council recalled its attachment to the territorial integrity and unity of Sri Lanka based on the principles of democracy.

On the future EU support to the peace process in Sri Lanka, the Council concluded that the EU continues to follow closely the developments in the country, not least the human rights situation, and invites all parties to join hands to seize the present opportunities and to promote jointly a solution to the conflict.

With the overall objective of supporting the peace process, including the post-conflict rehabilitation of the country, the EU will in particular:

- Strengthen its engagement in the peace process in Sri Lanka and in this context also engage the Tamil Diaspora in Europe to support the process,
- Expand the dialogue with all parties involved in the process.
- Mobilise funds to support immediate activities focusing on the priority areas of de-mining and return and rehabilitation of Internally Displaced People,
- Participate in the Oslo donor conference on 25 November 2002 and contribute to the donor fund to be established."

Relations with the Western Balkans

The Council approved Guidelines for strengthening operational coordination and communication of EU action in the Western Balkans.

Association Agreement EU-Chile

The Council adopted a Decision on the signature and provisional application of certain provisions of the Association Agreement between the European Community and its Member States, of the one part, and Chile, of the other part, in view of the signature of the Agreement on 18 November 2002 (*see also doc. 13971/02 Presse 348*).

The Agreement will have an unlimited duration and will open the way to deepen relations in a wide number of fields, based on reciprocity and partnership. Respect for the principles of democracy, human rights and the rule of law, as well as the promotion of sustainable development constitute key principles on which the Agreement is based.

EU-Africa Dialogue - Ministerial Meeting, Ouagadougou (28 November 2002)

The Council noted the progress made in the preparations for the EU-Africa Ministerial meeting in Ouagadougou on 28 November 2002, in particular as far as the EU's input for a Declaration on terrorism to be issued at that meeting is concerned.

Code of conduct on Arms Exports - 4th Annual Report

(*Doc. 13779/02*)

The Council took note of the Fourth annual report presented in line with provision 8 of the European Union Code of Conduct on Arms Exports. The report will subsequently be published in the Official Journal (C series).

COUNTRIES OF CENTRAL AND EASTERN EUROPE

Bulgaria - Establishment of a Joint Consultative Committee

(doc. 13625/02)

The Council agreed on the Community position in view of a decision of the EU-Bulgaria Association Council on the setting up of a Joint Consultative Committee between the Committee of the Regions and the Bulgarian Liaison Committee for Cooperation with the Committee of the Regions.

Bulgaria- Participation in the Fiscalis programme

(doc. 13707/02)

The Council adopted a decision on the position to be taken by the Community within the EU-Bulgaria Association Council concerning the participation of Bulgaria in the Fiscalis programme. The decision, setting out the terms and conditions for Bulgaria to participate in that programme, will subsequently be adopted by the Association Council by written procedure.

Fiscalis is a programme of Community action to reinforce the functioning of indirect taxation systems in the internal market. It was established by Decision No 888/98/EC on 30 March 1998.

ENLARGEMENT

Preparation of Accession Conferences

With a view to the next Accession Conferences, the Council adopted Common Positions for the following chapters:

- Chapter 14 (Energy) for negotiations with Bulgaria;
- Chapter 19 (Telecommunications and Information Technologies) for Romania;
- Chapter 25 (Customs Union) for Romania;
- Chapter 31 (Others) Item 5: Safeguards for Cyprus, Malta, Hungary, Poland, Slovakia, Latvia, Estonia, Lithuania, the Czech Republic and Slovenia

Preparation of the next Accession Conferences with Hungary and Slovakia - Agriculture

With a view to the next Accession Conferences with Hungary and Slovakia, the Council adopted Common Positions on Chapter 7 (Agriculture).

Arrangements for the Interim period

The Council agreed on arrangements for the period between the formal conclusion of the accession negotiations and entry into force of the Treaty of Accession (the Interim period), in the light of the precedent set by previous enlargements, including the establishment of an information and consultation procedure following the formal conclusion of negotiations, supplemented by active observer status following signature of the Treaty.

EXTERNAL RELATIONS / JUSTICE AND HOME AFFAIRS

Intensified cooperation on the management of migration flows with third countries - Council conclusions

(doc. 13894/02)

- "1. In accordance with the conclusions of the European Council at Tampere, an integrated, comprehensive and balanced approach to tackle the root causes of illegal immigration must remain the European Union's constant long-term objective. The European Council of Seville on 21-22 June 2002 highlighted the integration of immigration into the Union's relations with third countries and the importance of intensified cooperation with third countries for the management of migration, including the prevention and combating of illegal migration and trafficking in human beings. Recalling the Council conclusions of 15 October 2002 regarding urgent implementation of the conclusions of the European Council at Seville concerning the prevention and combating of illegal migration and trafficking in human beings, the Council welcomes work in progress and in planning pursuant to the Seville conclusions to carry forward dialogue and initiate operational projects with third countries.
2. Since Tampere, the EU - in cooperation with the relevant third countries - has integrated several issues related to migration in its long-term cooperation policy. The migration issue has been successfully put on the agenda of the dialogue between the EU and various countries, and substantial direct and indirect Community assistance has been programmed to support third countries in their efforts to address legal and illegal migration.
3. Recalling the Seville conclusions regarding cooperation with third countries of origin and transit to jointly combat illegal immigration, the Council wishes to intensify EU partnership cooperation with countries and regions of particular relevance. The Council underlines that the overall objective of the initiatives taken is to offer strengthened cooperation with such countries within the migration field in order to further improve the capacity of these countries to fulfil their roles in the international endeavours to deal with the many-faceted problems caused by illegal migration.

4. Taking account of the Council conclusions of 25-26 April 2002 regarding criteria for identifying third countries with which new readmission agreements need to be negotiated, the following set of criteria has been used to identify countries of origin or transit, with whom the Council considers that intensified cooperation should be established:
 - Nature and size of migratory flows towards the EU
 - Geographical position in relation to the EU
 - Need for capacity building concerning migration management
 - Existing framework for cooperation
 - Attitude towards cooperation on migration issues.
5. Based on these criteria, the Council considers it important that intensified co-operation is developed, in the first instance, with the following countries with which there is existing cooperation capable of forming a basis for further progress: Albania, China, the Federal Republic of Yugoslavia, Morocco, Russia, Tunisia and Ukraine. It is stressed that the importance of migration issues with regard to these particular countries implies that further cooperation is not only desirable, but essential. The Council also considers it essential to initiate cooperation with Libya. Finally, the Council considers it important to continue and further strengthen cooperation with the EU candidate state Turkey, *inter alia* given its geographical position. The Council underlines that, where relevant, a regional approach will be pursued, with an emphasis on the neighbouring countries.
6. Based on the above list, the Council agrees that a comprehensive dialogue shall be pursued with each individual country with a view to strengthening cooperation. The initiatives taken shall be based on a country-specific needs assessment conducted in consultation with the countries in question. Furthermore, the Council will come back on this item by May 2003 on the basis of a progress report, drafted by the Commission.
7. Considering the need of strengthening the cooperation, the Council stresses the political importance of developing the efforts to fully integrate the external dimension of the JHA issues in the existing and future relations of the EU with third countries. Therefore, all existing or future comprehensive dialogues pursued with the identified countries should, where relevant, include subjects such as return, readmission and documentation, implementation of agreements on management of migration flows, preventive policies and technical assistance geared towards institutional capacity building. The Council and the Commission shall, within the remit of their respective powers, continue to ensure this integration of migration into the external relations of the European Union and to cooperate with relevant international organisations and processes.
8. Recalling the conclusions of the European Council in Seville, which urged that any future cooperation, association or equivalent agreement which the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration, the Council considers it essential that such a clause should contain the following elements:

- An in-depth dialogue on the issue of migration.
- Commitment to take into account, in the framework of national strategies for economic and social development, of structural constraints associated with migratory flows with the purpose of supporting the economic and social development of the regions from which migrants originate.
- Joint examination of issues arising from illegal immigration and trafficking in human beings, including the issue on how to combat illegal immigration and networks of traffickers, with a view to establishing, where appropriate, the means for a prevention policy.
- The return, under humane and dignified conditions, of illegally residing third country nationals and stateless persons.
- Confirmation of the obligation, upon request and without further formalities, to readmit any of their nationals illegally present on the territory of the other party, to provide their nationals with appropriate documents and to extend to them the administrative facilities necessary for such purposes.
- The conclusion of readmission agreements. These agreements shall also cover, as defined in the negotiating mandate given to the Commission, arrangements for readmission of third country nationals and stateless persons.
- Cooperation regarding migratory flows to promote a fair treatment of individuals residing legally on the territories of the parties through an integration policy favouring non-discrimination and fight against racism and xenophobia.

The European Community will, where relevant, be ready to consider the provision of adequate assistance to implement such clause.

The European Community expects third countries to fulfil their readmission obligations, in conformity with international law, and to respond positively to requests from the Community or its Member States in this regard. The Council agrees that, until negotiating directives have been given to the Commission to negotiate a readmission agreement, the country concerned should be ready to conclude a bilateral agreement with a Member State of the European Community on the request of that Member State, which contains the specific readmission obligations between this country and the requesting Member State, including the obligation to readmit nationals of other countries and stateless persons."

DEVELOPMENT

Annual report on the EC's development policy and the implementation of external assistance 2001 - Council conclusions

(doc. 14095/02)

The Council adopted the following conclusions:

"Recalling its conclusions of 31 May and 8 November 2001 on the follow-up of EC development policy and the Statement by the Commission and the Council of November 2000 on the European Community's Development Policy, the Council welcomes the Annual Report 2001 from the Commission to the Council and the European Parliament on the EC development policy and the implementation of the external assistance.

The Council welcomes the Annual Report 2001 as a significant step forward. It seeks to respond - both in structure and in substance - to the conclusions of May and November 2001. The Council commends the efforts made to link the impact assessment of Community assistance with the fulfilment of the Millennium Development Goals (MDGs) and is encouraged by the Commission's intention to develop this aspect in its work by developing a system of indicators for monitoring country performance in close cooperation with Member States and the Development Assistance Committee (DAC) of the OECD. The Council reiterates its call on the Commission to present proposals on a set of clear result indicators for monitoring and future planning purposes with a view to Council agreeing them by the end of 2003.

The Council welcomes the information about the reform of the management of the external assistance and calls upon the Commission to provide information on both the progress and the impact of the reform process in forthcoming reports. It calls on the Commission to provide further information on the status of the reform in preparation for the annual debate on the Union's external action in 2003.

The Annual Report on the EC's External Assistance should be seen both as a vital management instrument and as the central public document of the European Community's development co-operation programme enhancing the transparency and accountability of the EC's external assistance. Its primary role is to assess performance and the overall effectiveness, efficiency and impact of EC development cooperation during the reporting period. The report should form the basis for an annual assessment by Council of the effectiveness of the EC's development policy in preparation for the annual debate on the effectiveness of the Union's external action (the orientation debate).

The Council welcomes the Commission's intention progressively to present the Annual Report earlier in the year after the reporting period and invites the Commission to strive at presenting the report on 2002 in July 2003. The report should feed into the process of preparing the annual orientation debate, the Programme of Action, the budget proposal and the multiannual strategic programme and annual operating programme mentioned in the conclusions from the European Council in Seville in June 2002.

While recognising the difficulties in finding the appropriate balance between fulfilling reporting requirements through sufficient and detailed information and the length of the Annual Report the Council invites the Commission to use a more concise and analytical approach to assess the progress being made in implementing the November 2000 Development Policy Statement, so that it can be a more effective management instrument and thereby help provide strategic direction to the EC's development policy. This would include an assessment of the value added of all horizontal budget lines and a transparent discussion about how the EC's Development Policy is implemented in and between various regions and countries.

The Council considers that the following areas could be developed further:

- impact, measured against objectives and result indicators, at the global level and in each region in relation to poverty eradication and the priorities of the Community's development assistance policy, including by:
 - reporting on progress by countries towards the Millennium Development Goals on the basis of agreed result indicators and,
 - reporting on the conclusions of results oriented monitoring of projects and,
 - reporting on the evaluation of Community programmes in relation to poverty eradication and the priorities of the Community's development policy;
- report more fully on co-ordination², complementarity and coherence;
- ensure consistency in the reporting on progress made concerning the mainstreaming of horizontal aspects relating to each region and sector;
- contain qualitative assessments, including weaknesses identified and proposals to correct them;
- information, including financial information on commitments, disbursements in relation to the figures in the respective programmes and budget lines, to substantiate the progress and impact of the reform of the management of external assistance;
- establish an executive summary;
- give a perspective on the years to come."

Indigenous peoples - Council conclusions

(doc. 13466/02)

"The Council

1. Recalls its strong commitment to the Resolution of 30 November 1998 on Indigenous Peoples within the Framework of the Development Co-operation of the Community and the Member States,
2. Reaffirms its conclusions of 25 June 2001 on Human Rights and Democratisation in Third Countries and takes note of the Communication of the Commission to the Council and the European Parliament of 8 May 2001 on the European Union's role in promoting Human Rights and Democratisation in Third Countries, stating that the Commission should consider supporting UN mechanisms and prioritise its work with Indigenous Peoples,

² doc 5431/01

3. Welcomes the initiative taken by the Commission in co-organising the conference “Speaking Out: Indigenous Views of Development and the Implementation of the EU policy on Indigenous Peoples” 18-20 of June 2002 and invites the Commission to ensure its follow-up,
4. Welcomes the report by the Commission on the Review of Progress in working with Indigenous Peoples of 11th June 2002,
5. Recognises that some progress has been made in improving the efficiency and effectiveness of EC work on indigenous issues. More specifically, progress has been made in integrating concern for indigenous peoples into policies, programmes and projects; in consulting indigenous peoples on policies and activities that affect them, and in providing support for indigenous peoples in key thematic areas,
6. Takes note of the areas underlined by the Commission report where further action is required and recognises that such action must be seen as part of a long-term and on-going process,
7. Invites the Commission and the Member States to continue implementing the above 1998 Resolution of the Council and to:
 - Ensure that efforts are made to facilitate the identification of focal points on indigenous peoples’ issues in all Commission services whose programmes affect indigenous communities directly or indirectly as well as in Member States’ national administrations. Where possible, a long-term and direct dialogue between the EC, indigenous peoples and international organisations working with them should be strengthened,
 - Ensure coordination and coherence in accordance with the Guidelines for strengthening operational co-ordination between the Community, represented by the Commission, and the Member States in the field of External assistance. This coherence and coordination should also be ensured in multilateral fora. The establishment of a network for the exchange of relevant information between the different focal points in the Commission and the specialised units dealing with these issues in Member States as well as the exchange of information between representatives of the indigenous peoples could positively contribute to these purposes,
8. Further invites the Commission to continue implementing the EC policy towards indigenous peoples and to:
 - Ensure the training of its personnel on issues related to human rights and democratisation in general, and to indigenous peoples in particular as well as on ways to achieve more participatory processes. This is especially important with regard to the personnel in delegations with the view of deconcentration,
 - Ensure the full recognition of gender and age aspects of indigenous peoples’ livelihood opportunities and constraints. The concerns of children demand specific attention,
 - Include an analysis of the political, social, economic and cultural situation of indigenous peoples within partner countries in Country Strategy Papers (CSP), based on the attention paid to indigenous peoples in national strategies and plans for development and poverty reduction. These analyses should also incorporate an assessment of the impact of EU development co-operation policies, programmes and projects on indigenous peoples,

- Integrate concerns of indigenous peoples into the political dialogue with partner countries as an integral part of the human rights clauses of the different co-operation and association agreements and relevant regulations, taking into account that different situations on the ground require different approaches. Inter alia, partner countries could be encouraged to foster intercultural dialogue and cooperation,
- Mainstream indigenous peoples' issues into the European Union's policies, practices and work methods. Where relevant, indigenous peoples should be able to fully and effectively participate at all stages of the project cycle (programming, identification, planning, implementation, and evaluation),
- Select a number of pilot countries with EC-funded development programmes in order to develop more concrete ways to include indigenous peoples as a part of civil society in all phases of the project cycle through partnership, co-operation and consultation. Specific procedures should facilitate the implementation of programmes in partnership with indigenous peoples. Efforts should be made to promote capacity building of organisations representing indigenous peoples,
- Ensure that reporting on progress concerning the implementation of EC policy towards indigenous peoples is included in the Annual Report on the Implementation of the Community's External Assistance and in the European Union Annual Report on Human Rights."

COMMODITIES

International Cocoa Agreement

(doc. 13165/02)

The Council adopted a Decision on the signing and conclusion on behalf of the Community of the International Cocoa Agreement, 2001. This new Agreement, which was negotiated in the framework of a special conference set up by the United Nations Conference on Trade and Development (UNCTAD), will eventually replace the International Cocoa Agreement, 1993, expiring on 30 September 2003.

Relocation of the International Cocoa Organisation

In the light of the political situation in Côte d'Ivoire, the Council took note of a letter to be sent to the Chairman of the International Cocoa Organisation on a temporary postponement of the decision of the International Cocoa Council at its May 2002 session regarding the relocation of the Organisation from London to Abidjan.

International Coffee Agreement 2001*(doc. 13471/02)*

The Council took note of the follow-up given to its Decision of 24 September 2001 on the signing and conclusion on behalf of the European Community of the International Coffee Agreement 2001 which provisionally came into force on 1st October 2001.

ENVIRONMENT**World Summit on Sustainable development: Review of preliminary follow-up in other Council settings - Conclusions***(doc. 14195/02)*

"THE COUNCIL:

RECALLING that the European Union has repeatedly indicated its determination to take the lead in the World Summit on Sustainable Development (WSSD) follow-up process; and

RECALLING the conclusions of the General Affairs and External Relations Council of 30 September and 1 October 2002 on the World Summit on Sustainable Development: Assessment, priorities and follow-up;

WELCOMES the conclusions adopted by the Agriculture and Fisheries Council of 14 and 15 October 2002, the Environment Council of 17 October 2002 and ECOFIN of 5 November 2002 as well as the announcement of conclusions to be adopted by the Transport, Telecommunications and Energy Council on 25 November and 5 December 2002 and by the Employment, Social Affairs, Health and Consumer Affairs Council on 2-3 December 2002, in which these formations of the Council review the commitments made at the Johannesburg Summit within their respective competencies and indicate how they can be taken forward, in the form of specific actions, with a view to preparing for the 2003 meeting of the European Council and beyond;

WELCOMES the intention of the Commission, in its forthcoming Spring Report for 2003 and building on the Communication "Towards a global partnership for sustainable development", and also with a view to preparing the Spring 2003 meeting of the European Council, to review progress and identify key measures to effectively transform into practical political action and proposals the internal and external EU commitments on sustainable development undertaken as a result of the Johannesburg World Summit, taking national strategies into account and reflecting the balance of the three pillars of sustainable development, as well as the follow up to EU commitments made at the Financing for Development Conference and other related commitments on the external dimension of sustainable development;³

³ These include the Rio Principles, Agenda 21, the Millennium Declaration, the Doha Development Agenda, the Rome World Food Summit: five years later, and other relevant UN conferences.

INVITES the Commission, with a view to its Spring report, preparing the 2003 Spring meeting of the European Council, to follow the proposals for indicators from the relevant Council formations, in order to reflect the economic, social and environmental dimensions of sustainable development in a balanced way. In this context, the Council RECALLS that it will adopt the complete set of indicators at its December meeting;

UNDERLINES the important role of the Commission in providing regular and comprehensive evaluation, analysis and policy proposals on sustainable development as a basis for future consideration by the Council;

DECIDES on the basis of conclusions adopted by the Council in all relevant settings, and on the basis of the proposals of the Commission to be put forward in its Spring Report, to review this issue at its meeting in February 2003, with a view to preparing for the Spring 2003 review of the European Council of the comprehensive strategy for sustainable development with a focus on putting into practice the outcome of the World Summit on Sustainable Development, as decided by the European Council in Barcelona, as well as of the Monterrey Conference on Financing for Development, inter alia through setting out the actions to be undertaken by Councils in all relevant settings through an update of the road-map on the follow-up to the European Council of Gothenburg on the EU Sustainable Development Strategy covering the internal as well as the external dimensions. "

JUSTICE AND HOME AFFAIRS

"HNS Convention" on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea

(doc.11248/02)

The Council adopted a Decision authorising the Member States, in the interest of the European Community, to ratify or accede to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1, 1996 (the "HNS Convention").

The HNS Convention is particularly important because it makes for improved victim protection under international rules on marine pollution liability, in keeping with the 1982 United Nations Convention on the Law of the Sea.

ECOFIN**Implementation of the Council Financial Regulation applicable to the general budget of the European Communities - Council opinion**
(13682/02)

"The Council

Having regard to Article 183 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁴,

Having regard to the draft Commission Regulation laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities,

Having regard to the request for an opinion, submitted by the Commission by letter dated 26 July 2002,

delivers the following opinion on that draft:

1. In Articles 3 and 4 of the draft Regulation, the Council thinks it necessary to keep to the wording of Article 5 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (hereinafter referred to as the "General Financial Regulation") by replacing the words "*property of the institution*" with "*property of the European Communities*".
2. As regards carryovers, the Council suggests maintaining the present situation regarding the carryover of appropriations for staff expenditure.
3. The Council suggests adding the following new paragraph to Article 6 of the draft: "*The Commission shall inform the Budgetary Authority before 15 April of any appropriations cancelled in accordance with Article 6(3).*".
4. The Council suggests that Article 22 of the draft read as follows: "*Pending official publication, a summary of the budget figures shall be published on the Internet site of the institutions, on the Commission's initiative, as soon as possible and no later than four weeks following the date on which the budget is declared finally adopted.*".
5. The Council thinks that Article 23, point (b)(ii), of the draft should read as follows: "*a justification of the changes in appropriations from one financial year to the next*".

⁴ OJ L 248, 16.9.2002, p. 1.

6. The Council thinks that the last sentence Article 26 of the draft should read as follows: "*The Commission's administrative expenditure of a type common to all titles must also be set out in a separate summary statement classified by type.*".
7. In Article 28 of the draft, the reference to the article in the General Financial Regulation should be replaced by the following reference: "*Article 46(1)(1)(g) of the Financial Regulation*".
8. The Council invites the Commission to align Article 36(2) of the draft on Article 54(2)(c) of the General Financial Regulation by deleting the qualifying phrase "*issued preferably by a public authority*".
9. The Council recommends that the Commission word Article 37(1) of the draft as follows: "*The national public-sector bodies or private-law entities with a public-service mission shall be subject to the law of the Member State or the country by which they are governed.*".
10. The Council invites the Commission to word Article 39(2), point (b), of the draft as follows: "*the conditions and detailed arrangements for performing the tasks, including the appropriate provisions for defining responsibilities and organising control arrangements*".
11. The Council thinks that the third sentence of Article 51 of the draft has no basis in the general Financial Regulation and that any case it should read as follows: "*The institution shall send a report to the budgetary authority.*".
12. The Council thinks that the second subparagraph of Article 88(1) of the draft sentence should read as follows: "*Financing agreements in the field of macro-financial assistance and budgetary support, which are individual legal commitments, may give rise to payments.*".
13. The Council suggests maintaining current practices regarding advances provided for by the Staff Regulations of Officials and the Conditions of Employment of Other Servants.
14. The Council suggests that the second subparagraph of Article 103(2) of the draft read as follows: "*Unless the time limit for payment is specified in the contracts governed by Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2002 on combating late payment in commercial transactions⁵, the time allowed for approval may not exceed.*".
15. As regards Chapter 8 of Title IV of Part One of the draft, concerning the internal auditor, (Articles 106 to 113), the Council invites the Commission to word Article 109 (1) of the draft as follows: "*The internal auditor shall adopt his work programme and shall transmit it to the institution.*".

Moreover, it considers that each institution should make any additional internal arrangements necessary to guarantee the independence of the internal auditor, in particular regarding his status or functions and the resources made available to him.

⁵ OJ L 200, 8.8.2000, p. 35.

16. As regards Title V of Part One of the draft concerning procurement, (Articles 114 to 157), the Council invites the Commission to add the following sentence to recital 25: *"The Commission will review the articles of the detailed rules for the implementation of procurement when the new consolidated Directive has been adopted."*

It also invites ask the Commission to:

- insert *"long leasehold"* to Article 114(1) of the draft;
 - clarify the wording of Article 116 (2) of the draft as follows: *"The pre-information notice shall be the notice by which the contracting authorities make known, on an indicative basis, the estimated..."*;
 - word Article 122, first paragraph, as follows: *"Contracting authorities shall negotiate with tenderers the tenders they have submitted in order to adapt them to the requirements set out in the contract notice referred to in Article 116, in the specifications as well as in any additional documents and in order to find the tender offering best value on the basis of the criteria given in Article 136"*;
17. The Council considers that the wording of Articles 158(1), 162(3) and 168 of the draft should be clarified.
18. The Council thinks that the first sentence of Article 181 of the draft should read as follows: *"Depending on the stage reached in the procedure, the authorising officer responsible shall suspend payments and either reduce the grant or demand its reimbursement pro rata by the beneficiary or beneficiaries:"*
19. The Council suggests that the Commission word Article 238(1) of the draft as follows: *"The pre-information notice shall be sent to the Office for Official Publications of the European Communities as early as possible, and at all events before 31 March each year for supply and service contracts and as quickly as possible after the decision authorising the programme for works contracts."*
20. In Articles 253 and 254 of the draft, the Council invites the Commission to replace the words *"The Commission"* by *"Each institution"*.
21. The Council suggests that Article 266 of the draft be worded as follows: *"The provisions of Articles 14(2), 46(3)(d), and 185 of the Financial Regulation shall apply to those bodies set up by the Communities which actually receive a grant from the budget and are listed in an annex to the general budget of the European Union for each financial year."*

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To conclude, the Council invites the Commission to take due consideration of the comments and suggestions made in this opinion."

Protection of the Communities' financial interests and the fight against fraud - Council conclusions

(doc. 13244/1/02 REV1)

"The Council:

1. Takes note of the annual report 2001 from the Commission on the protection of the Communities' financial interests and the fight against fraud;
2. Recognises that the report is the responsibility of the Commission; however, reiterates its wish expressed in the Council conclusions concerning the annual report 2000 that the Advisory Committee for the Co-ordination of Fraud Prevention (Cocolaf) in the future should be consulted on the entire report in due time before its presentation and publication;
3. Notes the pursuit of important efforts both at Community level and in the Member States to adopt legislative measures providing for a more effective protection of the Communities' financial interests and fight against fraud, and invites all those concerned to continue these efforts. In this context, stresses the importance of the European Anti-Fraud Office (OLAF) being able to continue to perform its tasks in an independent and efficient manner;
4. Underlines the importance of Cocolaf being consulted in advance on any legislative initiative in the European Union framework concerning the protection of the Communities' financial interests and the fight against fraud, as well as the importance of OLAF in the incorporation of effective measures to prevent fraud and irregularities in legislative proposals;
5. Considers that the new financial regulation that the Council adopted on 25 June 2002 will contribute to the improvement of financial management and control, and thus to the strengthening of the protection of the Communities' financial interests and of the fight against fraud;
6. Notes the reported decrease in the number of cases of fraud and other actual or suspected irregularities notified by the Member States in 2001;
7. Invites the Commission and the Member States to pursue work as regards harmonisation of the approach applied to distinguish between suspected fraud and other irregularities;
8. Takes note of the progress made in the field of strengthening the co-operation between the Commission and the Member States. Considers that the development of such co-operation is essential for the protection of the Communities' financial interests and the fight against fraud. Considers that progress should be made e.g. in recovering amounts unduly paid out;

Attaches great importance to the reinforcement of co-operation amongst Member States in the field of the protection of the Communities' financial interests and fight against fraud. Particularly stresses the need for improved co-operation amongst OLAF, Europol and Eurojust;

9. Reiterates the importance it attaches to the participation of third countries, and especially the candidate countries, in action to fight fraud, and to their co-operation with OLAF. Invites the Commission to present a full summary of activities and actions undertaken in this field in the 2002 annual report;
10. Welcomes the fact that all Member States have ratified the Convention of 26 July 1995 on the protection of the financial interests of the European Communities and a number of Protocols. Calls on Member States which have not yet done so to ratify the remaining Additional Protocol;

Notes the state of discussions held within the Council on 28 February 2002 on the green paper on criminal law protection of the financial interests of the Community and the establishment of a European Prosecutor;

11. Welcomes the fact that controls concerning the expenditure managed directly by the Commission are subject to a specific presentation in the annual report. Invites, however, the Commission to elaborate the content of the presentation in the future;
12. Regrets that the Commission has not followed up, in its annual report 2001, the request formulated in the Council conclusions concerning the annual report 2000 for presentation of a balance sheet of the results and costs involved in the framework of the Action Plan for 2001-2003 on the overall strategic approach concerning the protection of the Communities' financial interests and the fight against fraud. Requests that the Commission presents a balance sheet of the results and costs relating to OLAF's activities in the 2002 annual report;
13. Recalls that following a request made by the Council in its conclusions of 17 July 2000, the Commission presented a timetable for the implementation of the overall strategy to protect the Communities' financial interests in the form of an Action Plan covering the years 2001-2003. Emphasises in this context the importance of:
 - Continuing the establishment of a Community service platform, including an inventory of supplies and services that OLAF can provide;
 - Developing an investigation policy based on strategic and operational analysis of information on fraud, other irregularities and recoveries reported by the Member States;
14. Awaits the progress report provided for in Article 15 of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999, which it will study closely."

ENERGY**Use of biofuels in transport***(doc. 12695/02)***(Adoption of this point was open to the public)**

The Council adopted a common position on the draft Directive promoting the use of biofuels in transport. The text will be forwarded to the European Parliament for a second reading, in accordance with the co-decision procedure.

The aim of the proposal is to contribute to ensuring that the commitments made in the Kyoto Protocol on climate change are fulfilled, and that the Union's energy dependence on third countries is reduced.

The common position indicative targets for the use of biofuels – instead of the mandatory targets initially proposed by the Commission – and a review clause which could lead to their adjustment in 2007 or later. The targets establish that:

- by 31 December 2005, biofuels will account for a minimum proportion of 2% of all fuels sold for transport purposes, calculated on the basis of energy content;
 - this proportion will increase according to a scale, achieving a minimum of 5,75% by 31 December 2010.
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