2288th Council meeting

- JUSTICE AND HOME AFFAIRS -

Brussels, 28 September 2000

Presidents:  Mr Daniel VAILLANT
              Minister for the Interior

            Ms Elizabeth GUIGOU
            Keeper of the Seals
            Minister for Justice
            of the French Republic
CONTENTS

PARTICIPANTS........................................................................................................................................... 4

ITEMS DEBATED

VISA REQUIREMENT AND EXEMPTION FOR THIRD COUNTRY NATIONALS........... 5
AMENDMENT OF THE EUROPOL CONVENTION TO EXTEND THE COMPETENCE OF EUROPOL TO MONEY LAUNDERING ........................................................................................................ 5
MINIMUM STANDARDS FOR THE ASYLUM PROCEDURE ....................................................... 6
CONDITIONS FOR THE RECEPTION OF ASYLUM SEEKERS ........................................ 7
SETTING UP A PROVISIONAL JUDICIAL COOPERATION UNIT (EUROJUST) ....... 8
PROTECTION OF VICTIMS .................................................................................................................... 9
EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS ......... 10
PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW ..................... 11
PREPARATION FOR THE JOINT ECOFIN/JHA COUNCIL ............................................... 12
OTHER BUSINESS ........................................................................................................................... 12
– FIGHTING DOGS ............................................................................................................................ 12
– CONFERENCE ON CORRUPTION .............................................................................................. 13
MIXED COMMITTEE .......................................................................................................................... 13

ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS
– Europol ................................................................................................................................................... II
– - Data protection report ........................................................................................................................ II
– - Possibility for Europol to initiate investigations ............................................................................. II
– Management Unit and SIRENE Network ............................................................................................. III
– European Monitoring Centre for Drugs and Drug Addiction ............................................................ III
– - participation of Norway .................................................................................................................... III
– - relations with applicant and eligible countries ............................................................................... III
TRADE POLICY

- EC-Mexico Agreement.................................................................................................................. III
- Ban on imports of............................................................................................................................... IV
- - blue-fin tuna from Belize, Honduras and Equatorial Guinea......................................................... IV
- - Atlantic swordfish originating from Belize and Honduras ........................................................ IV

EXTERNAL RELATIONS

- EC-Malta Agreement...................................................................................................................... V

APPOINTMENTS

- Committee of the Regions................................................................................................................ V

TRANSPARENCY

- Public access to Council documents........................................................................................... V

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

**Belgium** :
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Mr Antoine DUQUESNE

Minister for Justice
Minister for the Interior

**Denmark** :
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Minister for the Interior
Minister for Justice

**Germany** :
Ms Herta DAUBLER-GMELIN
Mr Claus Henning SCHAPPER

Federal Minister for Justice
State Secretary to the Federal Ministry of the Interior

**Greece** :
Mr Michalis STATOPOULOS

Minister for Justice

**Spain** :
Mr Jaime MAYOR OREJA
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Minister for the Interior
Minister for Justice

**France** :
Mr Daniel VAILLANT
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Minister of the Interior
Keeper of the Seals, Minister for Justice

**Ireland** :
Mr Denis O'LEARY

Ambassador, Permanent Representative

**Italy** :
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Minister for Justice
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**Luxembourg** :
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State Secretary to the Minister for Justice
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**United-Kingdom** :
Mr Nigel SCHEINWALD

Ambassador, Permanent Representative

**Commission** :
Mr António VITORINO

Member
VISA REQUIREMENT AND EXEMPTION FOR THIRD COUNTRY NATIONALS

The Council held an exchange of views on the issues outstanding with regard to the proposal for a Council Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. The debate centred on the treatment of certain European countries and certain countries and territories outside Europe.

At the close of the debate the President noted a broad measure of agreement within the Council in favour of resolving these cases on the basis of a compromise proposal by the Presidency. He instructed the Permanent Representatives Committee to finalise the text of the Regulation – on which the European Parliament must be consulted again – in the light of today's Council deliberations.

AMENDMENT OF THE EUROPOL CONVENTION TO EXTEND THE COMPETENCE OF EUROPOL TO MONEY LAUNDERING

Having reached a consensus on the basis of a proposal for a text presented by the Presidency, on the substance of the extension of Europol competence to money laundering, the Council Working Party responsible was asked to take the necessary steps to finalise this dossier as soon as the Council had received the European Parliament's Opinion due in October 2000 to enable the draft Protocol to be formally adopted at the JHA Council meeting on 30 November 2000.

The purpose of this draft protocol is to extend the competence of Europol to money laundering in general regardless of the type of offence from which the laundered proceeds originate.
MINIMUM STANDARDS FOR THE ASYLUM PROCEDURE

The Council took note of the presentation by Commissioner VITORINO of a proposal for a Directive on minimum standards for the procedure for the granting or withdrawal of refugee status in the Member States and instructed its competent bodies to give the proposal a detailed examination.

The main purpose of the proposal is to draw up minimum standards enabling a system to be put in place for granting and withdrawing refugee status which is simple, speedy and fair. It includes, inter alia, specific provisions for handling manifestly unfounded applications for asylum and for the correct identification of refugees by offering minimum procedural guarantees.

Member States generally welcomed the Commission's approach in this proposal which is intended as a first step towards a common denominator in the field of asylum, which is both effective and feasible.

The proposal for a Directive is the fruit of the Commission's analysis of different contributions, notably by Member States – and of the debates on it held by the Council's preparatory authorities – of the European Parliament which delivered its Opinion on 15 June 2000 and of certain international organisations (UNHCR) (ECRE) active in the field of asylum.

Comprising minimum rules regarding the granting and withdrawal of refugee status, the proposal concerns only part of the area covered by a previous Commission working paper. The Commission has indicated that a second proposal on the asylum procedure will be forwarded towards the end of the year which will be an outline of the common asylum procedure referred to in the Tampere European Council conclusions.
CONDITIONS FOR THE RECEPTION OF ASYLUM SEEKERS

On the basis of a Presidency document, the Council held a policy debate on the conditions for the reception of asylum seekers with a view to enabling the Presidency to prepare draft conclusions at a later date. All of the delegations agreed that the Presidency document provided a very useful, sound basis for the continuation of the talks.

The Presidency's document proposed three topics for discussion by the Ministers, namely
- financial and material assistance for asylum seekers
- conditions for movement of asylum seekers within the examining State,
- possibility of access to employment for asylum seekers.

Ministers' replies generally emphasised that the Union should confine itself to laying down general principles regarding the conditions for the reception of asylum seekers, leaving the practicalities of the required detailed measures to the Member States.

Winding up the debate, the Council instructed the Permanent Representatives Committee to continue working on this issue in the light of today's ministerial deliberations and to submit draft conclusions to it for adoption at its meeting on 30 November/1 December 2000.
SETTING UP A provisional JUDICIAL COOPERATION UNIT (EUROJUST)

Pending the Opinion of the European Parliament due in mid November, the Council noted political agreement between delegations regarding a draft Decision setting up a provisional unit (EUROJUST).

Ministers agreed notably on compromise solutions for the main two substantive issues still to be resolved, namely the detailed procedures for Commission participation and Unit's scope for action.

The solution adopted by the Council would fully associate the Commission with the work of the provisional unit in line with Article 36(2) of the EU Treaty, with particular reference to the negotiation and adoption by the Council of the act setting up a permanent EUROJUST Unit; the Commission would also be enabled to provide expertise in its fields of competence.

The provisional unit's objectives are to improve cooperation between the competent national authorities with regard to investigations and prosecutions in relation to serious crime, particularly when it is organised, involving two or more Member States.

The Council instructed the Permanent Representatives Committee to settle some unresolved questions concerning the practical organisation of the provisional unit's work so that it could set up the provisional EUROJUST unit once the European Parliament's Opinion had been examined.
PROTECTION OF VICTIMS

The Council examined a draft framework decision on the protection of the victims of crime. During this examination Ministers noted that two substantive reservations remained, one relating to the conditions governing the grant of compensation in criminal proceedings, the other to constitutional issues which this proposal poses for certain delegations.

Pending the Opinion of the European Parliament, the Presidency asked the Permanent Representatives Committee to continue discussions on the draft framework decision, a Portuguese initiative, with a view to reaching a political agreement as soon as possible.

The draft framework decision on the protection of victims, a Portuguese initiative submitted in April 2000, aims to ensure that in each Member State, notwithstanding the major differences in national legal systems, victims have a real and appropriate role in its criminal legal system. Each Member State must continue to make every effort to ensure that victims are treated with due respect for the dignity of the individual during proceedings and recognise the rights and legitimate interests of victims with particular reference to criminal proceedings. Other rights to be guaranteed to victims concern notably the right to receive information, communication safeguards (notably linked to the use of a language foreign to the criminal justice system with which they are dealing), the right to protection, the right to reimbursement of expenses incurred and the right to legal assistance where the victim can claim the status of party to the criminal proceedings.
EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

The Council heard a presentation by Commissioner VITORINO on a proposal for a Council Decision on the creation of a European Judicial Network in civil and commercial matters and asked the Council's preparatory bodies to examine the proposal in detail.

The purpose of the Judicial Network in civil matters is to facilitate judicial cooperation between Member States in civil and commercial matters and to plan, put in place and keep up to date an information system for the public. The network will supplement the one already in place in the criminal justice sphere.

The network will be composed of central contact points designated by the member States, central authorities, judicial or other competent authorities, by liaison magistrates and, where appropriate, any other judicial or administrative authority considered appropriate by a specific Member State.

The network's contact points will meet periodically and at least three times a year. The aim of these meetings will be to facilitate an exchange of experience and to identify any problems, particularly legal problems, which Member States may encounter and, if necessary, find solutions to these problems.

The Commission proposes that, apart from the information permanently available to the network's members an information system for the public should be put in place for those areas it covers, to be managed by the Commission.
PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW

The Council held a policy debate on the protection of the environment through criminal law with the aim of arriving at clear political guidelines for future work on the matter. Ministers were asked to answer two questions in particular from the Presidency, namely

- Should the European Union have an acquis approximating the legislation of Member States as regards criminal sanctions for environmental violations, before enlargement?

- If so, and in order to achieve this, should the Council

  (a) adopt an instrument asking Member States to ratify the Council of Europe Convention, according to a particular procedure?

  or

  (b) adopt a separate instrument, taking over those provisions of the Council of Europe Convention which can be accepted by all the Member States, to approximate legislation on the subject of environmental violations?

At the close of the debate the Presidency noted that all of the Member States wanted the Union to have an acquis with reference to the approximation of laws concerning criminal sanctions for crimes against the environment, before enlargement.

With regard to the second question, the Presidency pointed out that – in the light of the problems which the Council of Europe Convention posed for a number of them and the probable time needed for its entry into force – most Member States preferred a separate Union instrument comprising those provisions of the Council of Europe Convention acceptable to all Member States.

Finally, the Council asked its preparatory bodies to expedite the work in the light of the guidelines it had produced.
PREPARATION FOR THE JOINT ECOFIN/JHA COUNCIL

During lunch the Ministers prepared the joint ECOFIN/JHA Council meeting of 17 October 2000 on financial crime with particular reference to three topics, namely

- How to ensure that, during the period of dialogue, negotiations with the non-cooperative countries and territories (NCCT) ¹ identified by the Financial Action Task Force on Money Laundering (FATF) are successful?

- How can we arrive at common standards of transparency in the structures used for economic and/or property purposes to facilitate the detection of suspect financial flows and traceability of financial movements connected with money laundering?

- How can we improve international judicial cooperation in criminal matters so as to remove obstacles to action by the judiciary and the police?

In this connection they also mentioned the problems arising with the money laundering Directive – discussed by the ECOFIN Council – also of major interest to the JHA Council and to Ministers for Justice in particular.

OTHER BUSINESS

– FIGHTING DOGS

The Council took note of a communication from the German delegation on the need for Community action banning at Community level the breeding, import of and trade in fighting dogs and calling for a Commission initiative on this subject.

¹ Bahamas, Cayman Islands, Cook Islands, Dominica, Israel, Lebanon, Liechtenstein, Marshall Islands, Nauru, Niue, Panama, Philippines, Russia, Saint Kitts and Nevis and Saint Vincent and the Grenadines.
Commissioner VITORINO said he would have the German delegation's request examined by the relevant Commission departments to establish whether such action fell within the Community's sphere of competence and on what legal basis.

– **CONFERENCE ON CORRUPTION**

The Netherlands delegation briefed the Council on an important Conference to be organised in The Hague in May 2001 on corruption (Global Forum on Fighting Corruption II).

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**MIXED COMMITTEE**

The Mixed Committee (ministerial level) with Iceland and Norway in the context of the Schengen arrangements met in the margins of the Council.

Discussions, under the chairmanship of Ms Hanne HARLEM, Minister for Justice of Norway, with the participation of Ms Solveig PETURSDOTTIR, Minister for Justice of Iceland, covered the following points:

– **Visa requirement and exemption for third country nationals**

The Mixed Committee noted the progress made with the draft Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. The Presidency noted that the European Union had instructed the Permanent Representatives Committee to continue examining the unresolved questions with a view to arriving at an agreement on the draft Regulation as quickly as possible.

The Mixed Committee meeting at Senior official level will also have the opportunity to organise an exchange of views on the draft Regulation.
– **Application of the Schengen acquis by the Nordic States**

  = implementation of the SIS

  = visa evaluation visits in the consular representations

The Presidency reported to the Committee on the state of preparation of the Nordic States as regards implementation of the SIS (Schengen Information System). The Presidency also reported on the VISA evaluation visits in the Nordic States' different consular representations, on the basis of a report drafted by a verification group composed of experts from the States applying the Schengen acquis, the Commission and the General Secretariat of the Council. The Presidency reminded the meeting that full application of the Schengen acquis in the Nordic States was scheduled for 25 March 2001.
ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

European refugee fund

The Council adopted a Decision setting up a European fund for refugees. A consensus reached on the two questions remaining to be solved in this urgent dossier, namely compensation for expenditure resulting from emergency measures in the event of a sudden mass influx of refugees or displaced persons provided for by Article 6 (former Article 5) and the scale for the distribution of resources among the Member States (Article 10 (former Article 9)) made the adoption possible.

Adoption of this Regulation will make it possible to release appropriations already provided for action to be funded by the European fund for refugees in the context of the 2000 financial year.

Reservations by two delegations on compensation for expenditure in the event of application of emergency measures were resolved through the addition of a statement to be attached to the Decision to the effect that the Council would endeavour to come to a decision, in the framework of the Directive on temporary protection, on other measures promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons.

Regarding the allocation of resources, the solution guaranteeing each Member State a regressive amount during the Fund's five-year period of validity was accepted during Coreper's discussions subject to the entry of a statement in the Council minutes concerning the situation of Member States which have already received a disproportionate number of refugees and displaced persons. According to this solution, the Council will resume negotiations on the basis of the Commission's work, with a view to arriving at a fair distribution of resources by the year 2003.

It will be recalled that the Commission proposal for a Council Decision creating a European Refugee Fund is a follow-on measure to the joint actions adopted on an annual basis under Title VI of the Treaty of Maastricht (the last of which was adopted on 26 April 1999, just before the entry into force of the Treaty of Amsterdam).

The current Decision creating a European Refugee Fund differs essentially from the previous annual texts in that it concerns a multi-annual fund of a total of EUR 216 million, valid from 1 January 2000 until 31 December 2004. It also contains measures intended to enable the Member States to cope with emergency situations in the event of a sudden mass influx of refugees or displaced persons, building on experience gained through the joint action of 1999, which contained similar measures, but which was specifically targeted at the situation in Kosovo.
Amendment of certain provisions of the Schengen Agreement

The Council adopted – on the initiative of the Grand Duchy of Luxembourg – a Decision establishing a procedure for amending Articles 40(4) and (5), 41(7) and 65(2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders.

This Decision will enable each Member State to amend certain administrative descriptions featuring in the abovementioned articles ("officers", "authorities" and "competent Ministries"), whenever, as a result of internal changes or reorganisations, the existing references are no longer accurate.

Europol

- Data protection report

On the basis of a report submitted by Europol Management Board, the Council unanimously decided to authorise Europol to enter into negotiations on an agreement providing for the transmission of personal data by Europol to ICPO-Interpol in accordance with the criteria defined by the Council Act of 12 March 1999, adopting the Rules governing the transmission of personal data by Europol to third States and Bodies.

- Possibility for Europol to initiate investigations

The Council adopted a recommendation to Member States in respect of requests made by Europol to initiate investigations.

According to the Recommendation, Member States should deal with any request from Europol to initiate, conduct or co-ordinate investigations in specific cases and should give such requests due consideration. Europol should in principle be informed whether the requested investigation will be initiated and of the results of any such investigation. If a Member State decides not to conduct an investigation, Europol should be informed of this decision and in principle of the reasons for it.

Correspondence between Europol and the Member States should be forwarded through the competent authorities in the Member States in accordance with the rules laid down in the Europol Convention and the relevant national legislation.

It will be recalled that the European Council meeting in Tampere on 15 and 16 October 1999 instructed the Council to allow Europol to ask Member States to initiate, conduct or coordinate investigations in specific cases, while respecting systems of judicial control in Member States. The authorities of the Member State concerned decide independently and in accordance with the national legislation how to process the request from Europol in accordance with Article 4 of the Europol Convention.
Management Unit and SIRENE Network

In line with Article 27 of the Financial Regulation relating to the installation and operation of the Management Unit's Helpdesk Server and of SIRENE network Phase II — following auditing of the accounts by the Court of Auditors - the Member States referred to in Article 21 of the abovementioned Regulation, gave a discharge to the Secretary-General in respect of implementation of the 1999 budget.

European Monitoring Centre for Drugs and Drug Addiction

- participation of Norway

The Council adopted a Decision on the conclusion of an Agreement between the European Community and the Kingdom of Norway on the participation of Norway in the work of the European Monitoring Centre for Drugs and Drug Addiction

- relations with applicant and eligible countries


The main purpose of the new Regulation is to enable EMCDDA to transfer to applicant countries and countries eligible for the PHARE programme, at the request of the European Commission, its know-how and assist in the creation and reinforcement of structural links with the REITOX network and the setting up and consolidation of the national focal points.

TRADE POLICY

EC-Mexico Agreement

The Council adopted a Decision concerning the conclusion of the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, signed at Brussels on 8 December 1997.

Through this Decision, the Agreement, together with the declarations made by the Community unilaterally or jointly with the other Party, are hereby approved on behalf of the European Community.

It will be recalled that the object of this Agreement is to strengthen existing relations between the Parties on the basis of reciprocity and mutual interest. To this end, the Agreement institutionalises political dialogue, strengthens commercial and economic relations by means of bilateral, preferential, progressive and reciprocal liberalisation of trade in conformity with the rules of the WTO and reinforces and broadens cooperation.
It will be recalled that the trade negotiations with Mexico were concluded early this year and that on 29 June 2000 the Council adopted a Regulation implementing for the Community the tariff provisions of Decision No 2/2000 of the Joint Council under the Interim Agreement on Trade and Trade-related Matters between the European Community and the United Mexican States.

The Regulation defines the implementing provisions needed for the Community to be able to calculate the rates of preferential duties which will apply to goods originating in Mexico and to open and administer the tariff quotas. The Regulation also delegates to the Commission the capacity to adopt the measures required to apply the Agreement and defines the trade-related procedures which are required. Finally, under the Regulation, preferential imports are subject to a surveillance procedure in order to assist in combating fraud.

**Ban on imports of**

- **blue-fin tuna from Belize, Honduras and Equatorial Guinea**

The Council adopted a Regulation prohibiting imports of blue-fin tuna (Thunnus thymus) from Belize, Honduras and Equatorial Guinea.

The purpose of the Regulation is to prohibit imports of blue-fin tuna from Belize, Honduras and Equatorial Guinea, following the recommendation adopted in November 1999 by the International Convention for the Conservation of Atlantic Tunas (ICCAT).

The European Community has been a contracting party to ICCAT since 14 November 1997 and under the common commercial policy it must ensure that these prohibitions on imports are applied at Community level.

- **Atlantic swordfish originating from Belize and Honduras**

The Council adopted a Regulation prohibiting imports of Atlantic swordfish (*Xiphias gladius*) originating in Belize and Honduras.

The purpose of the Regulation is to prohibit imports of Atlantic swordfish originating from Belize and Honduras, following the recommendation adopted in November 1999 by the International Convention for the Conservation of Atlantic Tunas (ICCAT).

The European Community has been a contracting party to ICCAT since 14 November 1997 and under the common commercial policy it must ensure that these prohibitions on imports are applied at Community level.
EXTERNAL RELATIONS

EC-Malta Agreement

The Council adopted a Decision concerning the conclusion of an Agreement between the European Community and Malta adopting the terms and conditions for the participation of Malta in Community programmes in the fields of training, education and youth.

The participation of Malta in Community programmes is an important element of the pre-accession strategy for Malta as set out in Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta.

Through this Decision, the Council approved the Agreement enabling Malta to participate in the following programmes:

- "Leonardo da Vinci" in the field of vocational training
- "Socrates" in the field of education
- "Youth".

APPOINTMENTS

Committee of the Regions

The Council adopted the Decision appointing as members Mr Bert ANCIAUX in place of Mr Johan SAUWENS, Mr Gilbert BOSSUYT in place of Mr Luc VAN DEN BOSSCHE, and Mr Stefaan PLATTEAU in place of Mr Karel DE GUCHT for the remainder of their current terms of office, which run until 25 January 2002.

TRANSPARENCY

Public access to Council documents

The Council has endorsed the reply to the confirmatory application by Mr T. VENABLES for access to documents, with the Danish, Netherlands, Finnish, Swedish and United Kingdom delegations voting against.