2469th Council meeting

- JUSTICE AND HOME AFFAIRS -

Brussels, 28 - 29 November 2002

Presidents:  Ms Lene ESPERSEN
Minister for Justice

Mr Bertel HAARDER
Minister for Refugees, Immigration and Integration and Minister without Portfolio with responsibility for European Affairs

of the Kingdom of Denmark
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PARTICIPANTS

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

**Belgium:**
- Mr Antoine DUQUESNE, Minister for the Interior
- Mr Marc VERWILGHEN, Minister for Justice

**Denmark:**
- Ms Lene ESPERSEN, Minister for Justice
- Mr Bertel HAARDER, Minister for Refugees, Immigration and Integration and Minister without portfolio with responsibility for European Affairs

**Germany:**
- Mr Otto SCHILY, Federal Minister for the Interior
- Ms Brigitte ZYPRIES, Minister for Justice

**Greece:**
- Mr Philippos PETsalnikos, Minister for Justice
- Mr Evangelos MALESIOS, State Secretary for Public Order

**Spain:**
- Mr Ángel ACEBES PANIAGUA, Minister for the Interior

**France:**
- Mr Dominique PERBEN, Keeper of the Seals, Minister for Justice

**Ireland:**
- Mr Michael McDOWELL, Minister for Justice

**Italy:**
- Mr Roberto CASTELLI, Minister for Justice
- Mr Giuseppe PISANU, Minister for the Interior

**Luxembourg:**
- Mr Luc FRIEDEN, Minister for Justice, Minister for the Treasury and the Budget

**Netherlands:**
- Mr Jan Piet Hein DONNER, Minister for Justice
- Mr Hilbrand NAWIJN, Minister for Aliens’ Affairs and Integration

**Austria:**
- Mr Gregor WOSCHNAGG, Ambassador, Permanent Representative

**Portugal:**
- Mr Antonio FIGUEIREDO LOPES, Minister for the Interior
- Mme Celeste CARDONA, Minister for Justice

**Finland:**
- Mr Johannes KOSKINEN, Minister for Justice

**Sweden:**
- Mr Thomas BODSTRÖM, Minister for Justice
- Mr Jan O. KARLSSON, Minister of Asylum and Migration

**United Kingdom:**
- Lord Geoffrey FILKIN, Parliamentary Under-Secretary of State, Home Office
- Baroness SCOTLAND of ASHTAL, Parliamentary Secretary, Lord Chancellor's Department

**Commission:**
- Mr António VITORINO, Member

* * *
ITEMS DEBATED

FOLLOW-UP TO THE SEVILLE CONCLUSIONS

The Council held an exchange of views concerning the implementation of all elements of the Seville European Council conclusions on asylum and immigration, including the plan for the management of the external borders and the fight against illegal immigration and trafficking in human beings.

The discussion was held on the basis of two Presidency reports (docs. 14707/02 and 14708/02) and of an oral presentation by Commissioner Vitorino concerning the state of play of the possibility on the effectiveness of financial resources available at Community level for repatriation of immigrants, for management of the external borders and for asylum and migration projects in third countries.

The Council, while supporting the efforts made by Commissioner Vitorino on this important issue, recalled that, according to the Seville conclusions, the Commission should have submitted a written report on the above-mentioned financial measures to the Council in late October 2002. Consequently, the Council urged the Commission to submit such a report as soon as possible.

In this context, the Council recalled the importance of going ahead with the implementation of actions to be undertaken in conformity with the Seville conclusions, such as the return action programme, pilot projects for external borders control or intensified cooperation with third countries.

It is recalled that at the European Council meeting in Seville on 21 and 22 June 2002, the European Council expressed its determination to speed up the implementation of all aspects of the programme adopted in Tampere for the creation of an area of freedom, security and justice in the European Union. At the same time, the European Council pointed out the importance for the EU and its Member States that migration flows should be managed in cooperation with the countries of origin and transit of such flows.

In the conclusions from the meeting in Seville, a concrete prioritisation of measures in all areas covered by the cooperation regarding asylum, immigration, the fight against illegal immigration and border control was made and concrete time limits for the implementation were set out.
DETERMINATION OF THE MEMBER STATE RESPONSIBLE FOR EXAMINING AN ASYLUM APPLICATION (DUBLIN II)

Following broad agreement on the draft "Dublin II" Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for asylum lodged in one of the Member State by a third-country national or a stateless person, the Presidency decided to launch a silent procedure in order to reach a political agreement on its compromise proposal.

The Presidency compromise text regards mainly the time limits which lead to identifying the Member State responsible for examining the asylum application in case of illegal entry. Where it is established that an asylum seeker has irregularly crossed the border into a Member State, this Member State shall be responsible for the application for examining the asylum claim for as long as twelve months after the date of the border crossing. After this period, the responsibility for examining the claim will be incumbent upon that Member State, in which the asylum seeker has been previous living for at least five months.

The proposed Regulation, forwarded by the Commission in July 2001, aims at bringing within the Community framework the Dublin Convention of 15 June 1990. The proposal aims at closing the loopholes and correcting the inaccuracies detected in the Dublin Convention. Furthermore, preventing abuse of asylum procedures, it ensures that asylum seekers have effective access to the procedures for determining refugees status.
READMISSION AGREEMENTS WITH THIRD-COUNTRIES

The Council adopted new mandates for the conclusion of readmission agreements with Turkey, Albania, Algeria and China.

The Council also held an exchange of views on the question of further mandates of negotiation. In this context, the Council invited the Presidency and the Commission to recall the Contracting Parties of the Cotonou Agreement, in particular Mali, Gambia, Ghana and Nigeria, that they are bound upon the obligation of readmission contained in Article 13(5) of the Agreement which is applicable due to the decision 1/2002 of the ACP/EC Council of Ministers.

It is recalled that, regarding the readmission agreements which are currently being negotiated, in 2000 and 2001 the Council adopted six mandates for the negotiation of readmission agreements with Morocco, Russia, Pakistan, Sri Lanka, Hong-Kong and Macao respectively. In 2002 the Council adopted a new mandate for the Commission to negotiate with Ukraine.

QUALIFICATION AND STATUS OF THIRD-COUNTRY NATIONALS AND STATELESS PERSONS AS REFUGEES OR AS NEEDING INTERNATIONAL PROTECTION

The Council reached political agreement on a great number of Articles regarding the proposal for a Council Directive on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection.

The Council instructed the Permanent Representatives Committee to pursue work with a view to reaching political agreement at a forthcoming Council meeting.
MINIMUM STANDARDS FOR THE RECEPTION OF ASYLUM SEEKERS IN MEMBER STATES

The Council, pending final confirmation by one delegation, reached agreement on the draft Directive laying down minimum standards for the reception of asylum seekers in Member States with a view to enabling the Council to adopt this Directive at a forthcoming meeting.

It is recalled that the Directive establishes minimum standards, which are deemed sufficient to ensure that asylum seekers have a dignified standard of living. It covers all third-country nationals and stateless persons who make an application for asylum at the border or on the territory of a Member State as long as they are allowed to remain on the territory as well as certain family members.

The Directive contains specific provisions for residence and freedom of movement, family unity, schooling and the education of minors. Regarding, in particular, employment questions, Member States shall decide the conditions for granting access to the labour market for the applicant.

According to provisions of the respective Protocols on the positions of the United Kingdom and Ireland as well as of Denmark, the United Kingdom notified its intention to participate in the adoption of this proposal, whereas Ireland and Denmark do not and subsequently are not bound upon the Directive's provisions and application.
RETURN ACTION PROGRAMME


The Return Programme aims at defining a common strategy at the level of the Union in the entire area of return by identifying a number of action and measures to be adopted and implemented in this field. In particular, the Programme, whose scope is very comprehensive insofar as it covers voluntary as well as forced return, is intended not only to reinforce the cooperation among Member States, but also to promote the approximation and harmonisation of their legislation. The relevant actions and measures are listed in an Annex to the Programme, which also sets the deadlines for their adoption and implementation.

It is recalled that as regards expulsion and repatriation policies, the conclusions of the Seville European Council called for the adoption by the end of this year of a repatriation programme based on the Commission Green Paper (conclusion 30, 4th bullet point).

EU RETURN PROGRAMME ON AFGHANISTAN

The Council adopted the Return Plan for Afghanistan. This Plan can be considered as the first application of the Return Action Programme also adopted by the Council during this session (see previous item). The Council also took note of the Commission's commitment to finance this plan with 17 million euro for the financing of the Plan in 2003.

The Council urged for the implementation of this Plan as soon as possible in consultation with other involved parties, and with appropriate contacts with the Afghan authorities.

It is recalled that the conclusions of the Seville European Council called for the adoption, by the end of this year of the components of a repatriation programme, which should include the best possible facilities for early return to Afghanistan (point 30, 4th bullet point).
SAFE THIRD COUNTRIES

The Council adopted the following statement:

"1. The Tampere European Council decided to develop the Union as an area of freedom, security and justice and in that context to establish a Common European Asylum System. The European Council reaffirmed the importance the Union and the Member States attach to absolute respect of the right to seek asylum. It agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention relating to the Status of Refugees, thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of non-refoulement. This system is to involve common standards for a just and efficient asylum procedure.

2. The Laeken European Council undertook, on the basis of the Tampere conclusions and as soon as possible, to adopt a common asylum and immigration policy, which would maintain the necessary balance between protection of refugees in accordance with the principles of the 1951 Geneva Convention, the legitimate aspiration to a better life and the reception capacities of the Union and its Member States.

3. The Seville European Council decided that measures taken in the short and medium term for the joint management of migration flows must strike a fair balance between, on the one hand a policy for the integration of lawfully resident immigrants and an asylum policy complying with international conventions, principally the 1951 Geneva Convention, and, on the other hand, resolute action to combat illegal immigration and trafficking in human beings. In this connection refugees must have swift, effective protection and a procedure has to be established to avoid abuse of asylum.

4. The question of safe third countries is an important problem in asylum proceedings in the Member States. Legislation on the question of safe third countries differs from one Member State to another leading to differing application of this principle. This is an obstacle for a proper functioning of an EU asylum policy. There is therefore a need for harmonisation to successfully combat the phenomenon of asylum-shopping and ensuring that those who can only find protection in the EU are guaranteed a quick and efficient procedure.

5. Apart from the Member States, it is above all desirable to include those Candidate States which are already engaged in the accession process. These countries comply with the Copenhagen criteria, which inter alia guarantee the rule of law and the proper and adequate determination of asylum requests. In the framework of the accession negotiations these candidate countries have already agreed to implement the EU acquis and thus also to respect the Geneva Convention and the European Convention on Human Rights.
The Council declares the following:

(1) Given the level of protection for refugees and asylum seekers in those States who are members of EFTA, the Council agrees that those States may be presumed to be safe third countries.

(2) Given the level of protection for refugees and asylum seekers shown by the Candidate States during their accession negotiations, the Council agrees that, for Member States applying the principle of safe third countries, from the date of the signature of the accession treaties by the Candidate States, those States may be presumed to be safe third countries.

Therefore, the Council decides to prioritise the work on the designation of safe third countries within the context of the draft Directive on asylum procedures in order to speed up resolution of that Directive within the timetable set at Seville."
INTEGRATION OF IMMIGRATION POLICY INTO THE UNIONS' RELATIONS WITH THIRD COUNTRIES

The Council took note of the conclusions on intensified cooperation on the management of immigration flows with third-countries, adopted by the General Affairs and External Relations Council at its session on 18 November 2002 (see doc. 14183/02 Presse 350).

It is recalled, that these conclusions have been drawn up following the Seville European Council conclusions which highlighted the importance of ensuring the cooperation of countries of origin and transit on immigration issues. Furthermore they stressed the necessity of including a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration in any future cooperation, association or equivalent agreement which the EU intends to conclude with third countries.

Following the assessment of the relations with third countries, eight countries (Albania, China, the Federal Republic of Yugoslavia, Morocco, Russia, Tunisia, Ukraine and Turkey) have been selected, in this initial stage, with a view to developing intensified cooperation, on the basis of the cooperation which already exists with them. Furthermore, cooperation will be initiated with Libya.

These conclusions also include the elements which the clause on joint management of migration flows and readmission, to be included in any future EU agreement with any third country, should contain.
JURISDICTION, RECOGNITION AND ENFORCEMENT OF JUDGEMENTS IN MATRIMONIAL MATTERS AND IN MATTERS OF PARENTAL RESPONSIBILITY

The Council reached an agreement on the proposal for a Regulation concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and in matters of parental responsibility. This agreement constitutes an important advance in matters relating to the jurisdiction in cases of child abduction.

According to the text agreed by the Council, in case of wrongful removal or retention of a child, the Courts of the Member State of origin keep their jurisdiction until the child has acquired a habitual residence in another Member State.

As regard the return of the child, the text agreed provides that a Court cannot refuse to return a child unless the person who requested the return of the child has been given an opportunity to be heard. Furthermore, the Court shall, unless exceptional circumstances makes this impossible, issue its order no later than six weeks after it is seized of the application.

It is recalled that this proposal is part of ongoing work within the European Community for the creation of a genuine judicial area based on the principle of mutual recognition of judicial decisions. The proposal extends the rules on recognition and enforcement of Council Regulation (EC) N° 1347/2000 to all decisions on parental responsibility based on common rules on jurisdiction and on reinforced cooperation between authorities.

In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on the European Union and to the Treaty establishing the European Community, Ireland and the United Kingdom have given notice of their wish to take part in the adoption and application of the proposal.

In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and to the Treaty establishing the European Community, Denmark does not participate in the adoption of the Regulation, and is therefore not bound by it or subject to its application.
THE 1996 HAGUE CONVENTION

Following the agreement reached on the previous item, the Council confirmed that there was a political agreement on the Decision authorising the Member States, in the interest of the European Community, to sign the 1996 Hague Convention.

This Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measure for the Protection of Children was concluded on 19 October 1996 within the Hague Conference on Private International Law. It is widely recognised between the Member States that the Convention would make valuable contribution to the protection of children in situation that transcend the boundaries of the Community and thus usefully complement existing and future Community rules in the same area.

The present Decision will thus allow Member States to make all necessary preparations for ratification without any further delay. In addition, arrangements for joint signature may be envisaged for the purpose of indicating to the rest of the world the value that the Community attaches to the Convention.

JUDICIAL COOPERATION IN CRIMINAL MATTERS AND ON EXTRADITION - AGREEMENT BETWEEN EU AND USA

The Council took note of the state of play of negotiations on the draft agreement between the European Union and the United States of America on judicial cooperation in criminal matters and extradition and agreed on the strategy that the Presidency will have to follow for the further conduct of the negotiations with the United States of America.
COMBATING RACISM AND XENOPHOBIA

The Council held an in-depth debate, based on a Presidency global compromise which was broadly welcomed, on the draft Council Framework Decision on combating racism and xenophobia.

The debate focused on the key provisions which define offences concerning racism and xenophobia conduct. The main concern expressed by several delegations was how to find a balanced approach between, on the one hand, the scope of criminal liability and, on the other hand, constitutional rules and fundamental principles relating to respect for the freedom of association, freedom of the press and freedom of expression.

In the light of the discussion and bearing in mind a number of reservations, the Presidency proposed to amend its compromise. In particular, it decided to broaden the scope of the text and to recall on it that this Framework Decision shall respect Article 6 of the Treaty and will not compromise constitutional principles and values of the Member States. On that basis, the Council instructed its relevant bodies to examine the draft Framework Decision with a view to reaching a political agreement at one of its forthcoming sessions.

It is recalled that the Commission proposed in November 2001 a Framework Decision on combating racism and xenophobia. The aim of the proposal is to build on and strengthen the Council Joint Action of 15 July 1996 concerning action to combat racism and xenophobia.

The proposal concerns both the definition of the conduct, which must be punishable, the penalties applicable to this conduct and measures for ensuring effective judicial cooperation between the Member States regarding racist and xenophobic offences.
APPLICATION OF THE PRINCIPLE OF MUTUAL RECOGNITION TO FINANCIAL PENALTIES

The Council, on the basis of a Presidency compromise text, held a debate on the main outstanding questions of the draft Framework Decision on the application of the principle of mutual recognition to financial penalties.

The Council mainly focused its debate on the question of the application or otherwise of the principle of double criminality. According to this principle, the competent authority in a Member State for executing a decision might oppose the recognition and execution of such a decision if it could be established that the behaviour which led to the imposition of the financial penalty had not been committed in the State issuing the penalty and was not considered as an offence in the State which was requested to execute the penalty.

In the light of the discussions, the Council instructed its relevant bodies to further examine the proposal on the basis of the Presidency text which was consider, by the majority of delegations, as a good basis for reaching an agreement in the near future.

For the purposes of this Framework Decision, "financial penalty" means the obligation to pay:

- a sum of money on conviction of an offence imposed in a decision,
- compensation imposed in the same decision for the benefit of victims, where the victim may not be a civil party to the proceedings and the court is acting in the exercise of its criminal jurisdiction,
- sums to be paid in respect of the costs of court or administrative proceedings leading to the decision, or
- sums to be paid to a public fund or a victim support organisation, imposed in the same decision.
MINIMUM PROVISIONS ON THE CONSTITUENT ELEMENTS OF CRIMINAL ACTS
AND PENALTIES IN THE FIELD OF DRUG TRAFFICKING

The Council continued its examination of the proposal for a Framework Decision on minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking.

The Council focused again its examination on the issue of penalties (Article 4 of the proposal) and noted that the compromise text tabled by the Presidency, while broadly welcomed, was not accepted by a small number of delegations.

It is recalled that this proposal is aimed at punishing non legitimate production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery, brokerage, dispatch, importation or exportation of drugs with maximum penalties of at least between 1 and 3 years of imprisonment. A maximum of at least between 5 and 10 years of imprisonment is foreseen for cultivating drugs for drug production, possessing or purchasing drugs for conducting any of the activities described above and the manufacture, transport or distribution of precursors in circumstances where the offence involves large quantities of drugs or either involves those drugs which cause the most harm to health or has resulted in significant damage to the health of a number of persons.

COMBATING CORRUPTION IN THE PRIVATE SECTOR

The Council, pending the solving of the only outstanding question concerning the possibility for a Member State to limit the application of the Framework Decision to conducts involving a distortion of competition, broadly agreed on the text of the draft Framework Decision for combating corruption in the private sector.

The Council therefore instructed its bodies to examine this outstanding question as soon as possible, with a view to reaching a general approach on the draft Framework Decision at one of its next forthcoming sessions.

It is recalled that the aim of this Framework Decision is in particular to ensure that both active and passive corruption in the private sector is a criminal offence in all Member States, that legal persons may also be held responsible for such offences, and that the offences incur effective, proportionate and dissuasive penalties.
OTHER BUSINESS

– **Draft Cooperation Agreement between EUROPOL and USA on the exchange of personal information**

The Council mandated the Permanent Representatives Committee to further examine the draft Cooperation Agreement between EUROPOL and USA on the exchange of personal information, with a view to obtaining an agreement in a forthcoming session of the Council.

– **Improvement of EUROPOL actions against terrorism**

The Council was informed by the Commission that it will submit a proposal concerning the improvement of EUROPOL actions against terrorism. In this context, the Commission announced that 5 millions euro would be available for this initiative.
ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

ASYLUM

Unauthorised entry, transit and residence

The Council adopted a Directive defining the facilitation of unauthorised entry, transit and residence (doc. 11910/02) and a Framework Decision on the strengthening of penal framework to prevent the facilitation of unauthorised entry transit and residence (doc. 11909/02).

The purpose of the Directive is to provide a definition of the facilitation of illegal immigration and consequently to render more effective the implementation of the Framework Decision in order to prevent that offence.

The Directive as well as the Framework Decision supplement other instruments adopted in order to combat illegal immigration, illegal employment, trafficking in human beings and the sexual exploitation of children.

Improvement of the Immigration Liaison Officers (ILO) network - Council conclusions (doc. 14464/02)

The Council adopted the following conclusions:

1. With the aim of gradually introducing a coordinated and integrated management of the external borders, the European Council meeting in Seville requested the creation of a network of Member States’ immigration liaison officers before the end of 2002. The Council takes note of the report from the Presidency on the creation of an ILO-network. It shows that a network of liaison officers is in place at this point in most of the countries surveyed in the report. The Council, however, also notes that there is a need to further strengthen this network.

2. The Presidency report concludes that Member States’ liaison officers carry out their tasks with skill and dedication. However, it is also noted that more can be done to further improve the benefits that Member States already derive from the deployment of liaison officers. Against this background there is a need to implement progressive initiatives leading to the improvement of the ILO network.

3. On the basis of the survey the Council urges that the following steps be taken:

   – Implementation of the Belgian-led Western Balkan ILO network project, which will present valuable experiences to further the improvement of the ILO network (start December 2002 – final report end December 2003),

   – Member States should immediately direct their liaison officers to share operational information to a wider extent, having due regard for national legislation,
− Member States should immediately encourage an improvement of the co-operation between their liaison officers and the consular services from other Member States,

− Seminars and workshops with participation of ILOs should be held with a view to establish best practices, a first meeting should be held as soon as possible and no later than within four months,

− Building on the experiences from ILO workshops and seminars as well on the experiences gained in the framework of the implementation of the Belgian-led Western Balkan ILO project and the UK-led projects in the Western Balkans, bearing in mind the work carried out on liaison officers within Title VI of the TEU, more clarity should be created regarding the different roles of liaison officers, immigration liaison officers, airport liaison officers, document advisors, technical advisors and consular services who all deal with immigration related issues. Taking these experiences into account as well as the best practices established through seminars and workshops, consideration should be given to drawing up a common manual for ILOs. This should be completed within one year.

4. The Council stresses the need for the immigration liaison officers to work as an integrated network and invites the Member States to consider the deployment of more immigration liaison officers. The benefits resulting from the posting of more liaison officers should exceed the expenses involved in the posting. The deployment of immigration liaison officers is clearly cost effective.

5. The Council will review the improvements in the ILO network before the end of 2003 taking into consideration the implementation of the recommendations set out in these conclusions.

**TERRORISM**

**Counter Terrorism Task Force (CTTF)**


**Terrorist profiles - Council Recommendation**

The Council adopted a Recommendation on the development of terrorist profiles. The Recommendation underlines, as the central element of the enhanced struggle against terrorism, the intensification of cooperation between the authorities in the Member States responsible for combating terrorism and Europol.
Security Handbook at meetings of the European Council and other similar events

The Council approved the Security Handbook for the use of police authorities and services at meetings of the European Council and other similar events. The role of the handbook is to serve as guidelines and catalogue of ideas for the Member States when undertaking the task of providing security for above mentioned events.

The reference framework for the handbook is set out in the Council (JHA) conclusions of 13 July 2001 (10916/01) and the Joint Action 97/339/JHA regarding cooperation on public law and order and security adopted by the Council on 26 May 1997.

Mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism

The Council adopted a Decision establishing a mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism. The aim of this initiative is to increase cooperation and mutual assistance in preventing and combating terrorist acts through police and judicial cooperation (doc. 8811/02).

**EUROPOL**

Europol Convention

The Council adopted an Act drawing up a Protocol amending the Europol Convention and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol (doc. 13448/02).

The amended Europol Convention aims at regulating the participation of Europol officials in joint investigative teams and requests made by Europol to initiate criminal investigations.

Data protection reports: Latvia and Cyprus

On the basis of the reports submitted by the Europol Management Board the Council decided that no obstacles exist for the Director of Europol to start negotiations with Latvia and Cyprus leading to an agreement including the transmission of personal data by Europol to Latvia and Cyprus.

Number of Deputy Directors at Europol

The Council approved the Presidency proposal of – for the moment – fixing the number of Deputy Directors of Europol at three, taking into consideration that the Management Board will return in due time to the issue of the structure of the Directorate of Europol including the question of the numbers of the Deputy Directors of Europol.
European network for the protection of public figures

The Council adopted a Decision setting up a European network for the protection of public figures. The Network shall consist of the national police services and other services responsible for the protection of the public figures. Each Member State shall designate a single contact point. Candidate countries and Europol may also designate a contact point to participate in the Network (doc. 9555/02).

Joint customs operations in 2001

The Council adopted the Report on joint customs operations in 2001 (doc. 8353/02), in particular on two carried out by Member States in 2001:

• Operation CAPRICORN organised by the United Kingdom customs - a joint customs operation intended to detect attempts to bring cocaine transported by air from the Caribbean into the EU;
• Operation SINDBAD organised by the French customs - an air/sea operation in the Mediterranean aimed at detecting illegal trafficking in drugs and sensitive goods by small vessels.

Various third countries and international organisations took part in these operations, as detailed in the reports on each of them.

DRUGS

Generic classification of specific groups of new synthetic drugs - Council Resolution (doc. 10683/4/02)

"The Council of the European Union,

- BEARING IN MIND the call of United Nations General Assembly Special Session of 1998 for the establishment or strengthening by the year 2003 of national legislation giving effect to the Action Plan against illicit Manufacture, Trafficking and Abuse of Amphetamine-type Stimulants,
- RECALLS the outcome of the conferences on control of narcotic drugs and psychotropic substances jointly organised by the International Narcotics Control Board and the Pompidou Group of the Council of Europe in 1998 and 2002, in particular the invitation to governments to examine the possible application of an emergency scheduling mechanism and/or the analogue and/or generic scheduling mechanisms at the national level,
- RECALLS the considerations on changes in the scope of control of substances during the forty-second session of the Commission on Narcotic Drugs in 1999, in particular on possible amendment to schedules I and II of the United Nations Convention on Psychotropic Substances of 1971,
- RECALLS the Commission Communication of May 1997 on the control of new synthetic drugs,

- RECALLS the Council Decision of June 1997 on the Joint Action on New Synthetic Drugs which aims at rapid identification of and reaction against new synthetic drugs,

- RECALLS the explicit reference in the European Union strategy on narcotic drugs (2000-2004) to the need for evaluation and possible improvement of the Joint Action,

- RECALLS the European Union Action Plan on Drugs 2000-2004,

- RECALLS the conference in November 2001 on identification, understanding and response to the problem of Amphetamine-type Stimulants jointly organised by the Belgian Presidency of the European Union and the United Nations Drug Control Programme,

- RECOGNIZES that individual classification of new synthetic drugs within the international systems and by national legislation may sometimes be delayed by formal procedures foreseen,

- WHEREAS generic classification of specific groups of synthetic drugs has the potential of bringing immediately under control by anticipation any new synthetic drug of the same generic nature that may be designed and manufactured by drug traffickers for non-medical use,

- RECOGNIZES that generic classification must still be complemented by individual classification of synthetic drugs which does not come under specific groups; one such complement could be an emergency and temporary classification procedure,

- RECOGNIZES the information available in the legal database of the European Monitoring Centre for Drugs and Drug Addiction according to which there are a number of differences in the classification of synthetic drugs in the EU Member States apart from the synthetic drugs included in the lists of the conventions of the United Nations on narcotic drugs and psychotropic substances as well as those classified by decision of the Council of the European Union as a result of work undertaken within the Joint Action,

- RECOGNIZES that only a limited number of Member States have incorporated generic classification of specific groups of synthetic drugs into their national legislation,

- CONSIDERING that such generic classification – if deemed to be feasible – may contribute to an increased convergence of national control policies regarding synthetic drugs throughout the European Union,

- CONSIDERING that an emergency and temporary scheduling system – if deemed to be feasible – may strengthen such control aspects and enhance collaboration at forensic and scientific levels between Member States.
WELCOMES THE INITIATIVE OF THE EUROPEAN COMMISSION TO:

- Launch – in continuation of the evaluation of the Joint Action on New Synthetic Drugs and in collaboration with the European Monitoring Centre for Drugs and Drug Addiction, the International Narcotics Control Board, the United Nations Drug Control Programme, the World Health Organisation and the Pompidou Group of the Council of Europe – a technical evaluation of the feasibility of

  (a) defining a generic classification system encompassing specific groups of synthetic drugs; and

  (b) setting up an emergency and temporary scheduling system

and the feasibility of incorporating either system or both systems into national legislation in order to facilitate consideration by and co-ordination between Member States in this regard on the one hand and on the other hand respecting the right of citizens to have prior knowledge of which substances are subject to control measures.

URGES MEMBER STATES TO:

- collaborate in this regard vigorously and closely with the Commission in the process of collecting the necessary information on national conditions, experiences and evaluation, including such of a constitutional, legislative, judicial, technical and practical nature."

Mid-term evaluation of the EU Action Plan against drugs - Note to the European Council

The Council approved a note to the European Council in connection with the mid-term evaluation of the EU Action Plan against drugs (doc. 12451/3/02). Based on the findings in the Commission communication in this respect and on the general indications made by Member States over the first years of the Action Plan the Council finds that the considerations reflected in the note should guide the implementation of the EU Drugs Strategy and the Action Plan on Drugs in the remaining two years of their term.

It is recalled that in December 1999 the European Council adopted the EU Drugs Strategy (2000–2004), which lays down the overall guidelines and objectives. The EU Action Plan on Drugs, which transposes the strategy into concrete actions, was adopted by the European Council in June 2000. According to the Action Plan, the Commission is to conduct a mid-term evaluation of the implementation of the Strategy.

Implementation Paper on action against synthetic drugs

The Council adopted an Implementation Plan which outlines possible actions to be taken in regard to the production and distribution of synthetic drugs (doc. 12452/2/02). The paper suggests initiatives against the illegal diversion of chemical precursors that forms the precondition for the production of synthetic drugs, against the chain of distribution from the production facility to the street level and in regard to the sale of the drugs at street level. Furthermore, the paper outlines as an objective the expansion of actions and initiatives to the areas surrounding the Union, especially the candidate countries.
ORGANISED CRIME

EU Organised Crime Report 2002

The Council took note of a confidential EU Organised Crime Report 2002 from EUROPOL.

Law enforcement and its role in the fight against drug trafficking

The Council adopted a summary Report on the second round of mutual evaluation concerning the law enforcement and its role in the fight against drug trafficking. This document reflects the conclusions and recommendations contained in the first five reports prepared with regard to Austria, Sweden, Luxembourg, Belgium and Germany.

The primary purpose of the second round was to evaluate the application and implementation at national level of instruments dealing with law enforcement and drug trafficking, of the resulting legislation and practices at national level and of international co-operation. In particular, the evaluation was to assess co-operation and co-ordination between different law enforcement structures and operational practices in them. Overall, the main focus of the evaluation was to be the practical day to day co-operation between different units both at national and international level.

Hague Conference on Private International Law

The Council approved

- a Recommendation in order to authorise the Commission to open and conduct negotiations with the Hague Conference on Private International Law on the conditions and modalities of accession of the European Community.
- a Decision authorising the Commission to open negotiations with the Hague Conference on Private International Law for a future convention on the law applicable to certain rights in respect of securities held with an intermediary.

EXTERNAL BORDERS

Transmission of the Fraud Bulletin to USA, Canada and the Candidate Countries

The Council, with a view to intensifying cooperation with USA, Canada and the Candidate Countries (Cyprus, Malta, Hungary, Poland, Romania, Slovakia, Latvia, Estonia, Lithuania, Bulgaria, Czech Republic and Slovenia), approved the transmission of the Fraud Bulletin to the above mentioned countries.

The Fraud Bulletin is a unified reporting service and central registration of manual detection aids designed to speed up procedures for providing individual Member States with information on cases where false and falsified travel documents have been detected. The basic aim of the Fraud Bulletin is to notify border officials of the abuse of travel documents and hence to increase the effectiveness of immigration controls.
Transmission of the EU Handbook of Genuine Identity, Travel and Residence Documents to Canada

The Council, with a view to intensifying cooperation with Canada to improve frontier security, which is an essential element in combating illegal immigration and terrorism, approved the transmission of the European Union Handbook of Genuine Documents to Canada.

VISA

Consular cooperation - Council conclusions
(doc. 14525/02)

The Council adopted the following conclusions:

"Remembering the events of 11 September 2001 that created a need to intensify controls in connection with the movement of persons across the external borders, both in the short term and in the long term,

Recalling the Council meeting on 20 September 2001, where the Council requested the Member States to apply procedures for the issue of visas with maximum rigour and to this end step up local consular cooperation,

Recalling the European Council meeting in Laeken on 14 and 15 December 2001, where the Member States agreed that better management of the Union’s external border controls would help in the fight against terrorism, illegal immigration networks and the traffic in human beings, and where the European Council therefore asked the Council and the Member States to take steps to set up a common visa identification system,

Considering the European Council meeting in Seville on 21 and 22 June 2002, where the Heads of State and Government recalled that top priority should be attached to the introduction, as soon as possible, of a common identification system for visa data, in the light of a feasibility study to be submitted in March 2003 and on the basis of guidelines from the Council,

Noting that guidelines for the introduction of a common system for an exchange of visa data were adopted at the Council meeting on 13 June 2002, and that the result of the Commission feasibility study on the basis of the guidelines is expected to be ready in March 2003 after which the comprehensive work of creating the actual database will start,

Recalling that the Common Consular Instructions lay down the framework for consular cooperation, among other things in view of the exchange of information on applicants who have been refused a visa because they have used stolen, lost or forged documents, because they have not observed the time-limit for departure stated on previous visas, because of security risks, and particularly in case of suspicion of attempted illegal immigration into the States applying in full the provisions of the Schengen acquis,

Recalling that for this purpose the missions are to organise meetings at a level that they deem suitable and at a frequency adapted to events,
Acknowledging that the exchange of information as part of consular cooperation is an invaluable means of seeking at an early stage to identify persons related to terrorist threats, terrorists and terrorist groups and to fight illegal immigration and trafficking in human beings,

Considering that at present there is a need for immediate action in order to increase cooperation between Member States on the issue of visas in relation to internal security and the fight against terrorism and illegal immigration,

Recalling Council Regulation (EC) No 334/2002 of 18 February 2002 laying down a uniform format for visas, where it was decided to integrate a photograph produced according to high security standards on the visa sticker at the latest within a period of five years after the adoption of the technical measures,

Noting the comprehensive plan to combat illegal immigration and trafficking in human beings in the European Union adopted by the Council on 28 February 2002 according to which consideration should be given in particular to including in visas, where appropriate, not only a photograph of the applicant but also his or her biometric data,

Considering the report on current and future level of cooperation between the Member States' Immigration Liaison Officers in third countries,

the Council has adopted the following conclusions:

- the Council recalls the importance of an efficient consular cooperation in relation to the issuance of visas, including with regard to the implementation of decisions concerning the consultation procedures; in this regard the Council recalls the ultimate responsibility of the central authorities of the Member States for the smooth running of consular cooperation at local level, and invites Coreper to look into making consular cooperation more effective by a closer monitoring of activities,

- the Council emphasises the importance of data collection, the use of existing databases and exchange of information in connection with visa applications, which could be used as means to identify persons related to terrorist threats, terrorists, terrorist groups, illegal immigration and trafficking in human beings,

- cooperation and exchange of information in consular cooperation should therefore be intensified and include the exchange of information collected in connection with the processing of visa applications and deemed to be relevant in the fight against terrorism, illegal immigration and trafficking in human beings,

- taking into account the time perspective regarding the common visa database and the need for efficient measures to fight terrorism, illegal immigration and trafficking in human beings, the Council calls for an examination before April 2003 regarding the effectiveness of prior consultation with central authorities as set out in the Schengen Convention, specifically with regard to the number of third-countries mentioned in annex 5 to the Common Consular Instructions,
− the Council urges the diplomatic missions of the Member States in third countries where networks involved in or associated with international terrorism are assumed to exist to exchange information obtained in connection with visa applications regularly and at least once a month,

− information shall be exchanged within the framework of national data protection rules and relevant international legal instruments,

− the Council invites Member States to accelerate the implementation of the Council Regulation of 18 February 2002 laying down a uniform format for visas in order to integrate a photograph on the visa sticker as soon as possible notwithstanding the five years time limit as set out in the Regulation,

− the Council invites the relevant EU bodies to consider the need for advancing the work on the possibility to insert other biometric data in visas,

− furthermore the Council invites the Member States to consider the need for exchange of information between Immigration Liaison Officers in third countries and the embassies of Member States within the framework of consular cooperation,

− finally the Council invites the Member States to consider where consular cooperation could be useful in connection with the implementation of the EU return action programme."

**SCHENGEN**

**Budget for SISNET for 2003**

According to the Financial Regulation relating to the installation and functioning of the SISNET, the Representatives of the Governments of the Member States, meeting within the Council, adopted the budget for SISNET 2003 (*doc. 13899/02*).

**ENLARGEMENT**

**Country Report on Lithuania (collective evaluation)**

EXTERNAL RELATIONS

Cuba - participation in ACP-EU negotiations of Economic Partnership Agreements (EPAs)

Following a request by the President of the ACP Council of Ministers from 26 September 2002, the Council agreed on a reply to be sent by the EU President to its ACP-counterpart, informing him that the EU can agree to Cuba's participation in the all-ACP phase of the EPA negotiations as an informal observer and that this status could be formalised once Cuba submits a request for accession to the Cotonou Agreement.

It is recalled that the negotiations of Economic Partnership Agreements were launched on 27 September 2002 in Brussels and that Cuba attended the official opening as a special guest of the ACP Chair. The first phase of the negotiations with all ACP-partners is foreseen to last about one year, until September 2003, after that the negotiations should break up into regional talks. The Council would revert to the matter at that moment.

Morocco - Importation of tomatoes into the Community

The Council approved a decision concerning the conclusion of an Agreement in the form of an exchange of letters on the importation into the Community of tomatoes originating in Morocco. The purpose is to extend, for the period from 1 October 2002 to 31 May 2003, the temporary autonomous concessions granted in Regulation (EC) No 2264/01 for the period from 1 November 2001 to 31 May 2002, i.e. increase of tariff quotas by 4000 t for the month of November, 2000 t for December, 7500 t for April and 4581 t for May.

The decision on the extension of these arrangements has been taken pending the conclusion of the comprehensive renegotiations of the agricultural protocols to the Association Agreement and in order to allow Morocco's traditional exports of tomatoes to continue without disturbing the Community market. The Community and Morocco reserve the right to terminate those arrangements if the renegotiations of the agricultural trade arrangements between the Community and Morocco are not completed before 31 December 2002. Once those renegotiations are concluded, the new arrangements will replace the provisions of the exchange of letters.