DRAFT MINUTES\(^1\)

Subject 2469th meeting of the Council of the European Union (Justice, Home Affairs and Civil Protection) held in Brussels on 28/29 November 2002

\(^1\) Information relating to the final adoption of Council acts which may be released to the public is contained in Addendum 1 to these minutes.
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1. **Adoption of the agenda**  
14753/02 OJ/CONS 67 JAI 274

The Council adopted the above agenda, with the addition under "Other Business" of the following item:
- Draft supplementary agreement between Europol and the United States.

2. **Approval of the list of A-items**  
14754/02 PTS A 62

The Council approved the "A" items as contained in document 14754/02 with the exception of item 16.

Information relating to items 8, 9 and 21 on the list is set out in Addendum 1 to these minutes.

3. **Follow-up to the Seville conclusions, including the plan for the management of the external borders and the fight against illegal immigration and trafficking in human beings**

- Presidency status report on the follow-up to the Seville conclusions on asylum and migration  
  14707/02 JAI 272 ASILE 73 MIGR 126 FRONT 136 VISA 173  
  10525/3/02 JAI 152 ASILE 35 MIGR 63 FRONT 64 VISA 107 REV 3  

- Progress report on the implementation of the Plan for the management of the external borders of the Member States of the European Union and the comprehensive plan to combat illegal immigration  
  14708/02 JAI 273 FRONT 137 MIGR 127 VISA 174 COMIX 676

- Interim report from the Commission concerning burden-sharing between Member States and the Union for the management of external borders

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 Council heard 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 co-operation with third countries.

4. **Proposal for a Council Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national**

The Council having reached broad agreement on the text of the draft Regulation, the Presidency decided to launch a silent procedure in order to reach a political agreement on its compromise proposal as contained in document 14990/02 ASILE 75.

5. **Financial resources for repatriation, for management of the external borders and migration projects in third countries**

Commissioner Vitorino included this report in his oral presentation under item 3.
6. **Readmission agreements**

   **a. Negotiation mandates to the Commission concerning readmission agreements with Turkey, Albania, Algeria and China**

   13966/02 MIGR 112 ALB 2 AL 8 CHINE 8 NT 15  
   + COR 1(en)  
   14102/02 MIGR 116 CHINE 9  
   14103/02 MIGR 117 NT 16  
   14101/02 MIGR 115 AL 9  
   14099/02 MIGR 114 ALB 3

   The Council adopted the above-mentioned mandates.

   **b. Possible further mandates**

   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.

7. **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**

   14643/1/02 ASILE 68 REV 1  
   + ADD 1

   The Council reached agreement on Articles 1 - 19 of the above proposal, subject to scrutiny reservations from two delegations, and instructed the Permanent Representatives Committee to pursue work with a view to reaching political agreement at a forthcoming Council meeting. The text resulting from the discussions of the Council is contained in the Annex to document 15068/02 ASILE 77.
14658/02 ASILE 70
   + ADD 1

   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.

9. **Proposal for a Return Action Programme**
14673/02 MIGR 125 FRONT 135 VISA 172

   The Council adopted the above-mentioned Return Action Programme.

10. **Return Programme on Afghanistan**
14654/02 MIGR 124 RELEX 248
    + ADD 1
    + ADD 1 COR 1(en)

   The Council adopted the Return Programme on Afghanistan as contained in document 15215/02 MIGR 131 RELEX 269 and took note of the Commission's commitment of finance of € 17 million for 2003.

11. **Safe Third Countries**
1466602 ASILE 71
    + COR 1(da)
    14689/02 ASILE 72

   The Council adopted a statement on safe third countries as contained in the Annex to document 15067/02 ASILE 76.
12. **Integration of immigration policy into the Unions relations with third countries, a.o.**

*intensified co-operation on the management of migration flows with third countries, including paradigm clause on joint management of migration flows.*

- **Information on GAERC decision.**
  13894/02 ASIM 47 RELEX 227

The Council took note of the conclusions on intensified co-operation 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.


14733/02 JUSTCIV 184

The Council:

a) took note that there was a general agreement on the package submitted by the Presidency on the basis of document 14733/02 JUSTCIV 184 and 15280/02 JUSTCIV 192;

b) requested that work be continued with a view to adoption of the Regulation during 2003.


14639/02 JUSTCIV 183

The Council took note that:

a) there was a political agreement on the draft Decision as set out in Document 14639/02 JUSTCIV 183;

b) final adoption of the Decision will take place in December 2002 after the revision of the text by the Legal Linguistic experts.
15. **Draft Agreement between EU and USA on judicial co-operation in criminal matters and on extradition**

The Council took note of the state of play of negotiations on the draft agreement 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.

16. **Draft Council Framework Decision combating racism and xenophobia**

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

In the light of the discussion and bearing in mind a number of reservations, the Presidency proposed to amend its compromise, particularly in regard to the scope of the Framework Decision and respect of Article 6 of the Treaty.

The text resulting from the proceedings of the Council is contained in document 15095/02 DROIPEN 89. On that basis, the Council instructed its relevant bodies to continue examination of the draft Framework Decision with a view to reaching a political agreement at one of its forthcoming sessions.

17. **Draft Council Framework Decision on the 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.

The Council mainly focused its debate on the question of the application or otherwise of the principle of double criminality.

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 considered by a majority of delegations to be a good basis for reaching an agreement in the near future.
18. **Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking**

14542/02 DROIPEN 84 CORDROGUE 100

The Council continued its examination of the above proposal focusing 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. The Council requested the Permanent Representatives Committee to continue its work on this Framework Decision with a view to reaching agreement at the next session of the Council.

19. **Draft Council Framework Decision on combating corruption in the private sector**

14660/02 DROIPEN 85

Following the examination of the draft Framework Decision, the Council instructed the Permanent Representatives Committee to examine the outstanding questions with a view to reaching a general approach at its next meeting.

The outcome of the proceedings of the Council is contained in document 15056/02 DROIPEN 88.

20. **Any other business**

- **Draft supplementary agreement between Europol and the United States**

The President urged delegations to resolve outstanding issues as soon as possible with a view to allowing the agreement to be signed before the end of the year.