2477th Council meeting

- JUSTICE AND HOME AFFAIRS -

Brussels, 19 December 2002

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Minister for Justice

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Minister for Refugees, Immigration and Integration and Minister with responsibility for European Affairs

of the Kingdom of Denmark
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Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.

The documents whose references are given in the text are available on the Council's Internet site http://ue.eu.int.

Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the above mentioned Council Internet site or may be obtained from the Press Office.
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PARTICIPANTS

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

Belgium:  
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Ambassador, Permanent Representative

Denmark:  
Ms Lene ESPERSEN  
Mr Bertel HAARDER  
Minister for Justice

Germany:  
Mr Otto SCHILY  
Ms Brigitte ZYPRIES  
Federal Minister for the Interior

Greece:  
Mr Philippos PETSALNIKOS  
Mr Michalis CHRISOCHOÍDIS  
Minister for Justice

Spain:  
Mr José Maria MICHAVILA  
Mr Ignacio GONZÁLEZ  
State Secretary to the Minister for the Interior

France:  
Mr Pierre SELLAL  
Ambassador, Permanent Representative

Ireland:  
Mr Michael McDOWELL  
Minister for Justice

Italy:  
Mr Roberto CASTELLI  
Minister for Justice

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

Netherlands:  
Mr Jan Piet Hein DONNER  
Mr Hilbrand NAWIJN  
Minister for Justice

Austria:  
Mr Gregor WOSCHNAGG  
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State Secretary to the Minister for Justice

Sweden:  
Mr Dan ELIASSON  
State Secretary to the Minister for Justice

United Kingdom:  
Lord Geoffrey FILKIN  
Parliamentary Under-Secretary of State, Home Office

Commission:  
Mr António VITORINO  
Member

* * *
Other participants:

Ministers of Iceland and Norway participating in the Mixed Committee:

**Iceland:**
Ms Sólveig PÉTURSDÓTTIR Minister of Justice and Home Affairs

**Norway:**
Mr Odd Einar DØRUM Minister of Justice
Ms Kristin ØRMENJOHNSEN State Secretary
ITEMS DEBATED

EU / USA AGREEMENT ON JUDICIAL CO-OPERATION IN CRIMINAL MATTERS AND ON EXTRADITION

Following a Presidency report on the negotiations which had been held with the USA on the draft Agreement on judicial cooperation on criminal matters and on extraditions, the Council instructed its relevant bodies to continue the examination of the draft Agreement with a view to reaching an agreement on the package at one of its forthcoming sessions.

It is recalled that on 25 April 2002 the JHA Council approved a negotiation mandate to the Presidency and on 27 June 2002 COREPER established an Ad hoc Expert Group, which is to follow the negotiations and assist the Presidency during the negotiations.

Several negotiation meetings between the USA and the EU have taken place until now and the negotiations are proceeding as planned. The preliminary discussions on all subjects covered by the negotiation mandate have been completed so far.

The Council considers it essential to ensure that an agreement between the USA and the EU adds value to the existing cooperation between the USA and the Member States of the European Union, which is based on bilateral agreements. This agreement will have two Contracting Parties: the EU and the USA, which are thus different from the contracting parties of the bilateral treaties on extradition and mutual legal assistance that exist between the Member States and the USA. This future EU-USA Agreement will therefore in no way modify these bilateral agreements, but it will supplement them.

Some of the subjects contained in the negotiation mandate include the new forms of legal assistance, which modern technology has made possible, such as exchange of information on bank accounts and video conferencing.
PROTOCOL AMENDING THE EUROPOL CONVENTION

The Council reached a general approach on the text of the draft protocol amending the Europol Convention. The agreed text will be forwarded to the European Parliament in order to be taken into account when drawing up its opinion. The Europol Joint Supervisory Body will also be consulted on the text.

The aim of the amendment is to give the necessary support and means to Europol to function effectively as the focal point of European police co-operation.

It is recalled that the European Council has stated that Europol has a key role with respect to co-operation between Member States' authorities in the field of cross-border crime investigation in supporting Union-wide crime prevention, analyses and investigation and has called on the Council to provide Europol with the necessary support.

According to Article 2 of the draft Protocol, the objective of Europol shall be, within the framework of police cooperation between the Member States pursuant to the Treaty on European Union, to improve the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating serious international crime where there are factual indications or reasonable grounds for believing that an organised criminal structure is involved and two or more Member States are affected in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences concerned.

For the purpose of the Europol Convention, the following forms of crime shall be considered as serious international crime: crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property, unlawful drug trafficking, illegal money-laundering activities, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings, motor vehicle crime and the forms of crime listed in the Annex to the Convention or specific manifestations thereof.
COMBATING CORRUPTION IN THE PRIVATE SECTOR

The Council, subject to a number of parliamentary scrutiny reservations, reached a general approach on the Framework Decision on combating corruption in the private sector.

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.

It is recalled that Denmark submitted on 13 June 2002 the initiative for a Framework Decision on this matter. The purpose of the proposal is in particular to reinforce the substantial provisions of the 1998 Joint Action on corruption in the private sector and to replace the Joint Action by the much stronger legal instrument of a framework Decision. In addition, the proposal seeks to ensure that all Member States ratify the 1997 EU Convention on corruption and the 1999 Council of Europe Convention on corruption.
CONFISCATION OF CRIME-RELATED PROCEEDS, INSTRUMENTALITIES AND PROPERTY

The Council, subject to some parliamentary scrutiny reservations, reached a political agreement on the Framework Decision on confiscation of crime-related proceeds, instrumentalities and property.

The aim of the draft Framework Decision is to ensure that all Member States have effective rules governing the confiscation of proceeds from crime, inter alia in relation to the onus of proof regarding the source of assets held by a person convicted of an offence related to organised crime.

In accordance with the agreed text, each Member State shall take the necessary measures to enable it to confiscate, either wholly or in part, instrumentalities and proceeds from criminal offences punishable by deprivation of liberty for more than one year, or property the value of which corresponds to such proceeds. In relation to tax offences, Member States may use procedures other than criminal procedures to deprive the perpetrator of the proceeds of the offence.

It is recalled that the main motive for cross-border organised crime is financial gain. In order to be effective, therefore, any attempt to prevent and combat such crime must focus on tracing, freezing, seizing and confiscating the proceeds from crime.

This Framework Decision does not prevent a Member State from applying its fundamental principles relating to due process, freedom of association, freedom of the press and freedom of expression in other media.
EXECUTION IN THE EU OF CONFISCATION ORDERS

The Council had a first exchange of views on a certain aspect of the draft Framework Decision on the execution in the European Union of confiscation orders, namely the question of sharing of assets confiscated in application of the Framework Decision, in order to obtain guidance for future work on the proposal.

According to Article 14 of the draft, confiscated assets or proceeds of the sale of confiscated property shall, after deduction of the executing State's costs, be returned to the issuing State unless otherwise agreed between the issuing State and the executing State.

Among a number of options put forward by the Member States, a majority favoured the sharing of assets on the basis of a fixed allocation of the confiscated assets, unless otherwise agreed between both involved States, combined with a minimum threshold.

The Council invited the Permanent Representatives' Committee to continue the work in the light of the conclusions in order to come back to the proposal in a forthcoming Council meeting.

It is recalled that Denmark proposed in June 2002 a Framework Decision on the execution in the European Union of confiscation orders. This proposal should be seen in the context of the proposal submitted by Denmark on the same day for a Framework Decision on confiscation of crime-related proceeds, instrumentalities and property, which was also discussed by the Council. It is also linked to the draft Framework Decision on the execution in the European Union of orders freezing property and evidence, on which the Council reached a general approach on 28 February 2002, and which is expected to be adopted soon.
COMBATING RACISM AND XENOPHOBIA

The Council decided to examine this item at one of its forthcoming meetings during the Greek Presidency.

The main purpose of this Framework Decision is to define a common criminal law approach in the EU to the phenomenon of racism and xenophobia in order to ensure that the same behaviour constitutes an offence in all Member States and that effective, proportionate and dissuasive penalties and sanctions are provided for natural and legal persons having committed such offences.

MUTUAL RECOGNITION TO FINANCIAL PENALTIES

The Council agreed that the Presidency's text on the draft Framework decision on the application of the principle of mutual recognition to financial penalties should be considered as a good basis for reaching an agreement on this issue in the near future.

It is recalled that, at its meeting on 14 and 15 October 2002, the Council agreed on the definitions of the proposal (Article 1): "decision", "financial penalty", "issuing State" and "executing State". This established a clear reference point for the purpose of the further examination of a number of key Articles.

The Council, at that meeting, also confirmed that the Framework Decision would not have the effect of amending the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.
ANY OTHER BUSINESS

– **SCOREBOARD TO REVIEW PROGRESS ON THE CREATION OF AN AREA OF "FREEDOM, SECURITY AND JUSTICE"**

The Council heard a presentation by the Commission on the biannual update of the scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union.

– **PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW**

The Council adopted the following statement:

"The Council, having in mind the serious accident of the oil tanker PRESTIGE off the north west coast of Spain, welcomes the steps taken for the purpose of the rapid adoption of the draft Framework Decision on the protection of the environment through criminal law.

In this context, the Council notes the conclusions of the European Council of 12 and 13 December 2002 regarding Maritime safety/marine pollution, that welcomes the action undertaken by the Commission to confront the consequences derived of that event and "its intention to examine the need for further specific measures" and, among them, "questions relating to liability and the corresponding sanctions". Therefore, in full consistency with the measures to be considered in accordance with the Community powers in the fields of protection of transport safety\(^1\) and protection of the environment\(^2\), the Council should consider complementary measures to strengthen the protection of the environment, in particular the seas, through criminal law."

– **FIGHT AGAINST ORGANISED CRIME**

The Council was informed by the Presidency on the state of play concerning, on the one hand, the issue of increasing cooperation between European Member States with regard to disqualifications, and on the other hand, the issue of a comprehensive mechanism for evaluating the application and implementation at national level of acts and instruments relating to police and judicial cooperation in criminal matters.

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\(^1\) Transport Council Conclusions (6 December 2002)

\(^2\) Environment Council Conclusions (10 December 2002)
MIXED COMMITTEE

In the margins of the Council, the Mixed Committee at Ministerial Level (EU + Iceland and Norway) met in the context of the Schengen arrangements.

Discussions, under the chairmanship of Mr Odd Einar DØRUM, Minister of Justice and the Police of Norway, covered the following points:

– IMPLEMENTATION AND APPLICATION OF THE SCHENGEN ACQUIS BY THE NEW MEMBER STATES FOLLOWING THEIR ACCESSION TO THE EU

The Mixed Committee agreed on forwarding a note to the new Member States following their accession to the European Union, concerning the process leading to the implementation and application of the Schengen acquis.

– INTRODUCTION OF SOME NEW FUNCTIONS TO THE SCHENGEN INFORMATION SYSTEM

The Mixed Committee agreed on the principle that Europol and the national members of Eurojust should have an efficient and workable access to the Schengen Information System (SIS).

A decision on how this access should be implemented will be taken at a later stage, on the basis of a report prepared by experts.
– **CATALOGUE OF RECOMMENDATIONS FOR THE CORRECT APPLICATION OF THE SCHENGEN ACQUIS AND BEST PRACTICES**

The Mixed Committee decided to publish a catalogue of recommendations for the correct application of the Schengen acquis and best practices.

This booklet intends to explain in very concrete terms the functioning of the system, it gives a good indication to Candidate countries, it serves as a reference tool for evaluation and it allows to draw the Council's attention to the need, where appropriate, to amend certain provisions of the Schenghen acquis.

– **COMMON USE OF LIAISON OFFICERS POSTED ABROAD BY THE LAW ENFORCEMENT AGENCIES OF THE MEMBER STATES**

The Mixed Committee, subject to the lifting of a parliamentary scrutiny reservation, noted agreement on the text of the Draft Council Decision on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States. The Decision will be formally adopted at a forthcoming session of the Council.

– **REGULATION LISTING THE THIRD COUNTRIES WHOSE NATIONALS MUST BE IN POSSESSION OF VISAS WHEN CROSSING THE EXTERNAL BORDERS OF MEMBER STATES AND THOSE WHOSE NATIONALS ARE EXEMPT FROM THAT REQUIREMENT**

The Mixed Committee, subject to the opinion from the European Parliament and the withdrawing of a parliamentary scrutiny reservation, noted agreement on the text of a Council Regulation amending Regulation (EC) Nº 539/2001 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.
It is recalled that, on the basis of an evaluation of contributions from Member States, the Commission presented, on 3 December 2002, a proposal for a regulation amending Regulation 539/2001.

The only substantial change is that nationals from Ecuador will be subject to visa requirements as from 1.4.2003. The other two amendments are the consequences of respectively, East Timor's independance and of the Agreement on free movement of persons signed with Switzerland.

– MANAGEMENT OF THE EXTERNAL BORDERS - IMPLEMENTATION OF THE SEVILLE CONCLUSIONS

The Mixed Committee took note of a Council's Presidency report on the follow-up to the Seville conclusions, in particular with regard to the implementation of the Plan for the management of the external borders and the comprehensive plan to combat illegal immigration and trafficking in human beings.

The Mixed Committee also heard a presentation by Commissioner VITORINO of the Commission's Communication on integrating migration issues in the EU's relation with third countries and was informed about the state of play of the VIS (Visa Information System).

– ISSUE OF VISAS AT THE BORDER, INCLUDING THE ISSUE OF SUCH VISAS TO SEAMEN IN TRANSIT - DRAFT COUNCIL REGULATION

The Mixed Committee noted agreement on the text of the Draft Council Regulation on the issue of visas at the border, including the issue of such visas to seamen in transit. This text will be submitted to the Council for adoption at one of its forthcoming meetings, once the European Parliament has given its opinion.

The aim of this Regulation, which the Spanish delegation submitted to the Council on 27 May 2001, is to clarify and update the rules for issuing visas at the border, including to seamen in transit, and to allow group transit visas to be issued at the border to seamen who are of the same nationality and are travelling in a group.
– **EXTERNAL BORDER CHECKS AND COMBATING ILLEGAL IMMIGRATION**

The Mixed Committee noted agreement on the conclusions which would be submitted to the Council for adoption (see page I of this press release). The Mixed Committee was informed by the Council's Presidency on the results of operation VISA which focused on the possible misuse of Schengen visas in airports.

– **INFORMATION FROM THE EU**

The Mixed Committee was informed by the Council's Presidency on the main achievements during the Danish Presidency as regards the enlargement of the EU, which will lead to enlarging the Schengen area, and Europol.
ITEMS APPROVED WITHOUT DEBATE

JUSTICE AND HOME AFFAIRS

Supplemental Agreement between the United States of America and Europol

The Council authorised the Director of Europol to conclude the draft Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information and to exchange the Letters related to the Supplemental Agreement.

External border checks and combating illegal immigration

The Council adopted the following conclusions:

"1) The competent authorities of the Member States are under an obligation to check cross-border movement at external borders, in accordance with the provisions of the Schengen acquis as integrated into the framework of the European Union;

2) In accordance with the Schengen acquis and following the objective of implementing systematic border checks at the external borders, Member States shall ensure that border checks are only relaxed in very exceptional cases. In such cases, entry checks should as a rule take priority over exit checks;

3) Member States shall ensure that, during checks at authorised border crossing points, an entry stamp indicating the date on which the external border was crossed, as well as the other information required by the relevant rules, is systematically affixed to the travel document of those third-country nationals for whom this is required by the provisions of the Common Manual;

4) The Council considers that, where an entry stamp has not been affixed to the travel document of a third-country national for whom this is a requirement, an overall assessment should be made on the lawfulness of that person's presence in accordance with national legislation; this assessment should take account of any other relevant information which may be provided (this information could include the person's transport tickets and receipts, or information obtained from the border crossing point through which the person claims to have entered, etc.);

5) In accordance with national legislation and following the overall assessment referred to in point 4, Member States should expel persons who are found to be unlawfully present and who are not leaving the territory voluntarily. In this regard, the Council recalls the Schengen acquis as integrated into the framework of the European Union;

6) In order to reach the objective mentioned in paragraph 2, the Council invites the Commission to clarify, before the next Justice and Home Affairs Council, the existing rules of the Schengen acquis and to reflect on amending the relevant rules accordingly. The consequences of a lack of entry stamps in travel documents should also be examined, including the question of presumption of irregular stay. In this regard, proposals could be submitted, if necessary, with a view to harmonise the practices of stamping of travel documents, also in the perspective of enlargement.

7) Finally, the Council invites its relevant bodies to examine the possible technical developments and best practices necessary to ensure the organisation of border checks, including stamping of passports."
1996 Hague Convention
(Doc. 15063/02)


Compensation for Oil Pollution Damage


Judicial co-operation between the EU and Iceland and Norway

The Council authorised the Presidency to open negotiations with a view to concluding agreements between the EU and Iceland and Norway on the application of certain provisions in the field of judicial co-operation in criminal matters on the basis of article 24 and 38 of the Treaty on the European Union.

Non-confidential report on the terrorism situation and trends in Europe (TE-SAT report)
(Doc. 14280/2/02)


Implementation of specific measures to combat terrorism
(Doc. 12608/02)

The Council adopted a Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism in accordance with Article 4 of Common Position 2001/931/CFSP. This article provides that Member States shall, through police and judicial cooperation in criminal matters, within the framework of Title VI of the Treaty on European Union, afford each other the widest possible assistance in preventing and combating terrorist acts.

Staff Regulations applicable to Europol employees
(Doc. 14893/02)

The Council amended the Staff Regulations applicable to Europol employees with a view to regulating the position of members of the Directorate of Europol, in particular their selection and possible disciplinary procedures.
Law enforcement and its role in the fight against drug trafficking

(Doc 12359/3/02)

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 Italy, Greece, Denmark, Spain and Ireland.

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.

Negotiation of readmission agreements

The Council decided to appoint the Migration and Expulsion Working Party as the responsible body for assistance and consultations to the Commission in relation to the negotiation of readmission agreements.

Information technologies and the investigation and prosecution of organised crime

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

(1) CONSIDERS that the maintaining and developing of the Union as an area of freedom, security and justice as laid down in Article 2 of the Treaty on European Union and the creation of the high level of safety in this area which is the general objective of Article 29 of the Treaty depends on the possibility to carry out criminal investigations and prosecutions sufficiently, thoroughly and effectively, while respecting human rights and fundamental freedoms as laid down in Article 6 of the Treaty on European Union.

(2) CONSIDERS that general use by all the inhabitants of the European Union of the possibilities afforded by the constant developments in the information technology field is an essential element in economic and social development throughout the European Union, and that the confidentiality of electronic communications should be limited only when such limitations constitute a necessary, appropriate and proportionate measure within a democratic society to safeguard national security and defence, public security and the prevention, investigation, detection and prosecution of criminal offences.
(3) CONSIDERS it essential that any legislation on electronic communications respects the requirements regarding privacy and the protection of personal data which stem from the European Convention on Human Rights of 4 November 1950; the Council of Europe Convention of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data; Community law, notably the general principles of Community law, including those referred to in Article 6 (1) and (2) of the Treaty of the European Union, Article 15 (1) of Directive 2002/58/EC on the processing of personal data and the protection of privacy in the electronic communications sector, and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(4) NOTES with concern that the technological innovations brought about by the continuous development of the internet and other electronic communications services as well as the increase in electronic banking, in parallel with their great benefits to society, also make it possible for criminals, in particular criminal organisations to further exploit these technologies.

(5) NOTES that because of the significant growth in the possibilities afforded by electronic communications, data relating to the use of electronic communications is now a particularly important and useful tool in the investigation and prosecution of crime, in particular organised crime.

(6) URGES all parties concerned (governments, parliaments, law enforcement and judicial authorities, industry, data protection authorities and other interested parties), as a matter of priority, to engage in an open and constructive dialogue at national and EU level aimed at finding solutions to the issue of traffic data retention that satisfies both the need for effective tools for prevention, detection, investigation and prosecution of criminal offences and the protection of fundamental rights and freedoms of natural persons, and in particular their right to privacy, data protection and secrecy of correspondence. In this connection the EU Forum on Cyber Crime set up by the European Commission could be used to enhance coordination between key stakeholders at EU level.

(7) AGREES that the adoption of rules on the approximation of Member States’ legislation on the obligation of electronic communication services providers to retain specific traffic data concerning electronic communications for a limited time should take into account the dialogue between interested parties. If it is found necessary to establish such rules, they should at any rate ensure that such traffic data is available insofar as it is necessary – according to the standards of a democratic society and existing provisions of a constitutional nature of each Member State –, appropriate and proportionate for the prevention, detection, investigation and prosecution of criminal offences.

(8) RECOMMENDS that the Member States and the European Union while respecting the right to free encryption constantly seek possible solutions in partnership with industry to the problems faced by law enforcement authorities through the increased use of encryption and existing provisions of a constitutional nature of each Member State, so as to strike a balance between the citizens’ right to privacy and to secrecy of their correspondence and the judicial and law enforcement authorities’ ability to investigate and prosecute organised crime effectively.

(9) POINTS OUT that it is expressly stated in the political guidelines in the Action Plan to combat organised crime adopted by the Council on 28 April 1997 that there is a need to pave the way for a policy ensuring that law enforcement and judicial authorities have the possibility to prevent and combat the criminal misuse of new technologies.

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(10) REFERS to the Council conclusions of 20 September 2001, which highlight the need to ensure that law enforcement authorities are able to investigate criminal acts involving the use of electronic communications, while striking a balance between the protection of personal data and the law enforcement and judicial authorities' need to gain access to data for the purposes of criminal investigations and prosecution, as well as to the Council of Europe Convention on Cybercrime.

(11) RECOMMENDS that, to the greatest possible extent, the Member States and the European Union follow developments within the communications and information technology field and constantly ensure that the law enforcement authorities receive further training in this area. In this connection maximum use should be made of the possibilities offered by the Framework Programme on police and judicial cooperation in criminal matters (AGIS), managed by the Commission in co-operation with the Member States.

(12) URGES the Member States to increase their efforts to comply with the provisions laid down in the Council Act of 29 May 2000\(^2\) to ensure that decisions on the interception of electronic communications and on access to data concerning electronic communications are taken with the greatest possible speed and in respect of fundamental rights and freedom of individuals, especially in the case of mobile electronic communications, where the free movement of mobile users across borders is not matched by a legal seamless interception system, with the consequent need for close and speedy cooperation between the Member States.

(13) RECOMMENDS that, including within the framework of the dialogue described in Conclusion no. 6, Member States consider possible and appropriate means of identifying the users of prepaid mobile telephone cards with a view to facilitating the application of the interception measures recognized by the Council resolution of 17 January 1995 on lawful interception of telecommunications insofar as it is necessary – according to the standards of a democratic society and existing provisions of a constitutional nature of each Member State – appropriate and proportionate for the detection, investigation and prosecution of criminal offences.”

Schengen Consultation Network

The Council decided to update and to partly declassify the technical specifications of the Schengen Consultation Network with regard to examining visa applications.

Schengen Evaluation of the Benelux countries

The Council approved the evaluation of the application of the Schengen acquis by the Benelux countries. The scope of the evaluation covers the entire Schengen acquis, e.g. border management, visa, Schengen Information System, Data Protection and police and judicial cooperation.

The conclusions of the evaluation mention that the Benelux countries comply with the Schengen acquis in a sufficient and - for most parts - also a very thorough manner with only minor deficiencies. The conclusions include as well a number of recommendations for further improvement of the application of the Schengen acquis. The Benelux countries are invited to report in writing in principle within six months, on the follow-up on the recommendations in the evaluation reports.

**Schengen Information System (SIS)**

The Member States agreed on the financing of expenditure in relation to the SIS and meeting within the Council, approved the management report concerning the implementation of the SIS installation and operation budget for 2001.

**Implementation and application of the Schengen acquis by the new Member States**

*(Doc. 15440/02)*

The Council took note of information from the Presidency concerning the process leading to the implementation and application of the Schengen acquis in full by the new Member States. The Presidency attempts to describe and to clarify the process as well as to inform on practical and procedural aspects of the process in order to help the new Member States prepare themselves successfully for the Schengen acquis following their accession to the European Union.

**Catalogue for the correct application of the Schengen acquis**

*(Doc. 15443/02)*

The Council approved the second volume of a Catalogue for the correct application of the Schengen acquis. This volume deals with the Schengen Information System, notably the application of the SIRENE manual.

The purpose of the Catalogue is to clarify and detail the Schengen acquis and to indicate, on the one hand, recommendations which should make it possible to establish a basis for the correct application of the acquis or for monitoring it, and, on the other hand, best practices which must be considered as the optimal application of the acquis.

The Catalogue will serve as a reference tool for future evaluations undertaken in the candidate countries.
Special civil protection assistance

The Council adopted the following Resolution:

"THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

The current Civil Protection Action Programme approved by Council Decision 1999/847/EC, of 9 December 1999, establishing a Community action programme in the field of civil protection 1, states, in its 6th recital, that the isolated and outermost regions of the Union have special characteristics because of their geography, terrain and social and economic conditions which have an adverse effect and make it difficult to deliver aid and means of assistance in the event of major danger.

Council Decision 2001/792/EC, Euratom of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions 2, states, in its 10th recital that the isolated and outermost regions and some other areas of the Community often have special characteristics and needs owing to their geography, terrain and social and economic circumstances. These have an adverse effect, hamper the deployment of assistance and intervention resources making it difficult to deliver aid and means of assistance, and create particular needs for assistance in the event of serious danger of major emergency.

The new guidelines for the programmes co-financed by the Structural Funds under the INTERREG III Community initiative 3, aim at promoting cross-border cooperation, including civil protection cooperation in border, outermost and insular regions and transnational cooperation in risk management in areas prone to natural disasters.

In addition to the outermost regions as defined in Article 299 paragraph 2 of the Treaty establishing the European Community and the least favoured regions or islands, including rural areas, as referred to in the second paragraph of Article 158 of the Treaty, there are isolated regions, remote regions which are not easily accessible and sparsely populated regions in the European Union such as those in the northern part of Europe which have characteristics that affect the proper planning and implementation of civil protection.

The establishment of plans in those regions is far more costly in terms of human and material resources than those initiated in other parts of European Union and the training and necessary updating of staff involved in such plans is also more expensive.

Obtaining a certain level of response in these regions involves a far more intensive use of human and material resources than in a similar situation in other regions. The geographical features (insularity, terrain, land shortage) lead to serious problems when teams are put into place and deployed, especially taking into account the scarcity of resources in the Member States closest to the outermost and isolated regions and in most of the insular or remote regions.

Solidarity among citizens of the European Union must be demonstrated in providing safety and protection for such citizens irrespective of their place of residence,

3 Communication from the Commission to the Member States of 28 April 2000 laying down guidelines for a Community initiative concerning trans-European cooperation intended to encourage harmonious and balanced development of the European territory - INTERREG III - (OJ C 143, 23.5.2000, p. 6).
HAS ADOPTED THE FOLLOWING RESOLUTION:

While Civil Protection is primarily the responsibility of the Member States, efforts should be made at the level of the Community to endeavour to ensure that its citizens living in or visiting outermost, isolated, remote or sparsely populated regions enjoy a level of safety similar to that existing in other areas of the Union. For that reason and taking into account the socio-economic situation of some of these territories compared with the rest of the European Union and the additional cost involved in achieving safety levels similar to those elsewhere in the Union, measures ensuring adequate assistance should be provided.

It is necessary to encourage the execution of joint projects between outermost, isolated, insular, remote and sparsely populated regions, geared to the identification of common risks, exchange of information and procedures for a more uniform approach to risk assessment; all this is required in order to draw up and implement integrated strategies and actions to provide each territory with appropriate early-warning systems, and appropriate land use planning on the basis of the different risks.

Planning for emergencies should provide for and take into account those issues arising from existing risks, the demographic, socio-economic and geographical characteristics of the territory, and the particular socio-economic vulnerability to disaster of the outermost, isolated, insular, remote and sparsely populated regions.

Recognition is given to the fundamental importance of communications in emergency management, both within the region (sometimes problematic because of its geographic features and terrain) and with other parts of the country and other neighbouring regions. There is a need for redundant and reliable voice, data and image communications, which allow for effective coordination of interventions in any situation.

Emphasis is laid on the advisability of having Specialised Intervention Teams in those Member States with outermost, isolated, insular, remote or sparsely populated areas, and on the fact that effective implementation of the mechanism to facilitate reinforced cooperation in civil protection assistance interventions allows the rest of the European Union to make a contribution to solidarity.

Given the special importance of the tourism sector on the economy in some of these territories, it is important to conduct information campaigns on self-protection measures for visitors. These campaigns could be coordinated at Community level.

The Member States are invited to take better advantage of the use of existing Community programmes, in particular INTERREG III, to develop measures that are complementary to those of the Community Action Programme in the field of Civil Protection.

The Member States concerned are invited as far as possible to report on the follow-up to this Resolution to the Commission, who will report further to the Committee for the action Programme and for the Mechanism in the field of Civil Protection.

This Resolution does not prejudge specific measures that may be taken in favour of outermost regions as defined in Article 299 paragraph 2 of the Treaty.”
**ECOFIN**

**Executive agencies to be entrusted with management tasks of Community programmes**  
(*Doc. 13125/02*)

The Council adopted the Regulation laying down the statute for executive agencies to which the Commission, under its own control and responsibility, may entrust certain tasks in the management of Community programmes.

**Financial assistance to Moldova**  
(*Doc. 14307/02*)

The Council adopted a Decision providing further supplementary financial assistance to Moldova.

The Community shall make available to Moldova macro financial assistance to a maximum of EUR 15 million in the form of a straight grant with a view to ensure a sustainable balance-of-payments situation and strengthening the country's reserve position. The assistance will be managed by the Commission in close consultation with the Economic and Financial Committee and in a manner consistent with any agreement reached between the IMF and Moldova.

**BUDGET**

**Flexibility instrument**

In the context of the conciliation meeting with the European Parliament which was held on 25 November 2002, the Council agreed to mobilise the flexibility instrument for an amount of 12,008,240 euros in order to finance the restructuring of the Spanish and Portuguese fleet.

**EXTERNAL RELATIONS**

**Angola**  
(*Doc. 15466/02*)

The Council adopted a Common Position lifting restrictive measures against the União Nacional para a Independência Total de Angola (UNITA) and repealing the Common Positions 97/759/CFSP and 98/425/CFSP. The Common Position is a follow-up to the UN Security Council Resolution 1448(2002) of 9 December 2002 which repealed the sanctions imposed in 1993, 1997 and 1998. The Council hereby acknowledges the steps taken by the Government of Angola and UNITA toward the full implementation of the "Acordos de Paz", the Lusaka Protocol, the Memorandum of Understanding of 4 April 2002, relevant UN Security Council resolutions, the declaration on the peace process issued by the Government of Angola on 19 November 2002 and the completion of the work of the Joint Commission, as expressed in the Joint Commission declaration signed on 20 November 2002.
Sierra Leone - Rough diamonds

Following-up on UN Security Council Resolution 1446(2002) extending the measures imposed for a new period of 6 months from 5 December 2002, the Council adopted a Common Position on the prohibition on imports of rough diamonds from Sierra Leone (doc. 15462/02) and a Regulation on the importation into the Community of rough diamonds from Sierra Leone (doc. 15631/02), which extend the regime put in place for the period from 5 December 2002 to 5 June 2003. Under these rules the direct or indirect import of all rough diamonds from Sierra Leone to the Community is prohibited under the conditions set out in the UN Security Council Resolutions. Imports of rough diamonds controlled by the Government of Sierra Leone through the Certificate of Origin regime continue to be exempted.

Kimberley Process certification scheme for the international trade in rough diamonds
(Doc. 15328/02)

The Council adopted a Regulation implementing the Kimberley Process certification scheme for the international trade in rough diamonds. The Regulation sets up a Community system of certification and import and export controls for rough diamonds for the purposes of implementing the Kimberley Process certification scheme.

It is recalled that at the initiative of African diamond producing countries in particular, producer and trading countries, the diamond industry and representatives of civil society have met in the "Kimberley Process" to design a certification scheme and effective control system for the international trade in rough diamonds, in order to prevent "conflict" diamonds from fuelling armed conflicts and discrediting the legitimate market for rough diamonds.

Stabilisation and Association Agreements with Croatia and FYROM - Specific procedures

The Council adopted two regulations, respectively for Croatia and the former Yugoslav Republic of Macedonia, laying down specific procedures for the application of the following provisions of the Stabilisation and Association Agreements: the safeguard clause for agricultural and fisheries products, the article on dumping, the general safeguard and shortage clause, the anti-fraud clause and the article on competition.

In the case of Croatia, the Regulation amends Council Regulation (EC) No 2248/2001 of 19 November 2001 on certain procedures for applying the Stabilisation and Association Agreement (SAA) between the European Communities and their Member States, on the one hand, and the Republic of Croatia, on the other hand, and for applying the Interim Agreement on trade and trade-related measures. The SAA was signed on 29 October 2001. Its entry into force is subject to the completion of the ratification processes, whereas the Interim Agreement applies provisionally since 1 January 2002.

In the case of the former Yugoslav Republic of Macedonia (FYROM), the Regulation amends Council Regulation (EC) No 153/2002 of 21 January 2002 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, on the one hand, and the FYROM, on the other hand, and for applying the Interim Agreement on trade and trade-related matters. The SAA was signed on 9 April 2001. Its entry into force is subject to the completion of the ratification processes, whereas the Interim Agreement entered into force on 1 June 2001.
The Council adopted a decision concerning the conclusion of an Agreement under Article 24 of the Treaty on European Union between the EU and Poland on the latter's participation in the European Union Police Mission (EUPM) in Bosnia and Herzegovina. It is recalled that the Council on 10 December 2002 adopted similar Agreements with a number of other third countries, i.e. Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Norway, Romania, Slovakia, Slovenia, Switzerland, Turkey and Ukraine.

The Council adopted a decision on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement to take account of the outcome of negotiations on new mutual agricultural concessions conducted with the aim of further liberalising trade in this sector in the context of the accession process.

The Council agreed on the position to be taken by the Community within the EU-Hungary Association Council concerning a decision on the definition of the concept of "originating products" and methods of administrative co-operation, which will eventually amend Protocol 4 to the Europe Agreement. The decision, which will be adopted by means of the written procedure, will apply from 1 January 2003.

It is recalled that in the first half of 1997 a system introducing pan-European cumulation of rules of origin was adopted. Between 1998 and 2001 the system was amended several times with a view to extending its scope and improving its operation in certain respects. The present decision is designed to make further technical amendments by means of a "consolidated" text incorporating all successive amendments.

The Council endorsed the EU internal arrangements for the implementation of the information and consultation procedure which will apply for the period between the formal conclusion of the accession negotiations with the 10 acceding countries and the entry into force of the Treaty of Accession (the "interim period"). It is recalled that the Council agreed on the establishment of an information and consultation procedure on 18 November 2002.
ACP - 8th EDF - Reallocation of resources  
(Doc. 15207/02)

The Council agreed on the position to be taken by the Community within the ACP-EC Council of Ministers regarding a decision on the reallocation of unallocated resources as well as uncommitted interest subsidies from the 8th European Development Fund (EDF). The decision is designed to ensure the continuity of certain activities pending the entry into force of the 9th EDF, once the procedures for ratification of the ACP-EC Partnership Agreement, signed in Cotonou on 23 June 2002, have been completed. The decision will be formally adopted before the end of the year by the ACP-EC Committee of Ambassadors by means of the written procedure.

ACP - 8th EDF - Member States' contributions for the financial year 2003

The Council adopted a decision laying down, for the financial year 2003, the schedule of calls for contributions from the Member States to the 8th European Development Fund. Transactions will amount to a total of EUR 2300 million in 2003.

TRADE

Ukraine - Steel products  
(Doc. 14567/02)

The Council adopted a decision on trade in certain steel products between the Community and Ukraine. The decision establishes quantitative limits for the year 2003 pending the signature and the entry into force of the new agreement on trade for certain steel products and a satisfactory solution being found to the issue of exports of ferrous scrap from Ukraine.

Antidumping - Imports of iron or steel ropes and cables  
(Doc. 14988/02)

The Council adopted a Regulation amending Regulation (EC) No 1601/2001 imposing a definitive anti-dumping duty and definitively collecting the provisional anti-dumping duty imposed on imports of certain iron or steel ropes and cables originating in the Czech Republic, Russia, Thailand and Turkey.

Antidumping - Imports of stainless steel wire from India  
(Doc. 15031/02)

The Council adopted a Regulation terminating a "new exporter" review of Council Regulation (EC) No 1600/1999 imposing definitive anti-dumping duties on imports of stainless steel with a diameter of 1mm or more originating in India, re-imposing the duty with regard to imports from one exporter in this country and terminating the registration of these imports.
Mexico - Rules of origin

The Council agreed on the position to be taken by the Community within the EU-Mexico Joint Committee with a view to extending beyond 31 December 2002 and up to 31 December 2004 the rules of origin established in Note 4 of Appendix II(a) to Annex III to Decision No 2/2000 as adapted by the Joint Council Decision No 5/2002 with the purpose of ensuring their consistency with the Parties' tariff laws and regulations. The decision should enter into force on 1 January 2003.

CUSTOMS UNION

Import quotas for agricultural and industrial products

The Council adopted a Council Regulation regarding tariff quotas at reduced and zero duty rates for the import of specific volumes of certain industrial, agricultural and fishery products.

The Regulation amends Regulation 1255/96, which is aimed at improving the conditions of supply to European industry while avoiding any market disturbance for the products in question. It introduces new tariff quotas for products whose description needs to be altered, while removing the tariff quota for certain other products. In view of the large number of amendments coming into effect on 1 January 2003, the Regulation provides a new annex to replace the Annex of Regulation 1255/96.

ENVIRONMENT - item for public deliberation

Export and import of dangerous chemicals

The Council adopted in first reading a Regulation of the European Parliament and of the Council concerning the export and import of dangerous chemicals. (doc. 3675/02)

The Regulation aims at replacing Regulation 2455/92/EC concerning the export and import of certain dangerous chemicals. In addition, it provides for stricter requirements in certain areas (e.g. extended scope of the export notification to a wider range of chemicals; possibility of an export ban for certain chemicals that are prohibited within the Community; requirement that all dangerous chemicals be appropriately labelled when exported). It is expected to allow for the implementation of the Rotterdam Convention at Community level.

In this context, the Council also adopted a Decision approving, on behalf of the Community, the Rotterdam Convention on the ‘Prior Informed Consent’ (PIC) procedure for certain hazardous chemicals and pesticides in international trade. (doc. 14425/02)

This Decision aims at enabling the Community to become a party to the Rotterdam Convention. The Convention needs to be ratified by 50 parties before entry into force. All Member States (except Ireland) and the Community have signed the Convention.

The Convention provides, inter alia, for compulsory transmission of information on national bans or on severe restrictions concerning chemicals falling within its scope, for a specific export notification procedure, and for the export of certain chemicals pending prior informed consent from the importing party.


**FISHERIES**

**Fixation of the 2003 fishing year guide prices**  
*(Doc. 14510/02)*

The Council unanimously adopted a Regulation fixing for 2003 the guide prices and Community producer prices for certain fishery products. These prices, which can be increased, maintained or decreased depending on the species, are fixed in order to determine price levels for intervention on the market for certain fisheries products.

The main changes to the initial Commission's proposal for 2003 and the guide prices for 2002 are as follows:
- fresh products: the guide prices for sardines, saithe, anchovy, plaice, dab, albacore (whole fish), Northern prawns are increased; guide prices for other products are maintained;
- frozen products: the guide prices for whole hake, whole swordfish, octopus are increased; guide prices for other products are maintained;
- Tuna destined for processing industry: the guide price for yellowfin tuna is increased of roughly +2% (€ 1207/tonne instead of € 1184/tonne in the initial proposal) and represent an overall increase of roughly +3% compare to the guide price set for 2002 (€ 1172/tonne).
CONSUMER AFFAIRS

Amendment of the Liability for Defective Products Directive

The Council adopted the following Resolution:

"THE COUNCIL OF THE EUROPEAN UNION,

RECALLING THAT:

1. Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products ¹, as amended by European Parliament and Council Directive 1999/34/EC of 10 May 1999 ², seeks to achieve an approximation of the laws of the Member States concerning the liability of the producer for damage caused by the defectiveness of his products because the existing divergences may distort competition and affect the movement of goods within the common market and entail a differing degree of protection of the consumer against damage caused by a defective product to his health or property. To provide an adequate solution to the problem, peculiar to our age of increasing technicality, of a fair apportionment of the risks inherent in modern technological production, the Directive imposes liability on the producer without fault on his part for damage caused by the defectiveness of his products.

2. The producer is considered to be the manufacturer of a finished product, the producer of any raw material or the manufacturer of a component part and any person who, by putting his name, trade mark or other distinguishing feature on the product, presents himself as the producer, cf. Article 3(1) of the Directive. Without prejudice to the liability of the producer, any person who imports into the Community a product for sale, hire, leasing or any form of distribution in the course of his business shall be deemed to be a producer and shall be responsible as a producer, cf. Article 3(2) of the Directive.

3. Where the producer or the importer of the product cannot be identified, each supplier of the product shall be treated as its producer unless he informs the injured person, within a reasonable time, of the identity of the producer or the importer or of the person who supplied him with the product, cf. Article 3(3) of the Directive. Apart from this specific Article the Directive contains no provisions concerning the liability of the supplier.

4. At the time of the adoption of the Directive (Session 1025 of the Council, 25 July 1985), the following joint statement of the Council and the Commission concerning the scope of the Directive was inserted in the Council minutes:

"With regard to the interpretation of Articles 3 and 12, the Council and the Commission are in agreement that there is nothing to prevent individual Member States from laying down in their national legislation rules regarding liability for intermediaries, since intermediary liability is not covered by the Directive. There is further agreement that under the Directive the Member States may determine rules on the final mutual apportionment of liability among several liable producers (see Article 3) and intermediaries."

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¹ OJ L 210, 7.8.1985, p. 29.
At the same time the following statement was inserted in the Council minutes concerning the understanding of Article 3(3):

"The Council notes that the word "supplier" within the meaning of Article 3(3) means the person who operates in the chain of distribution."

5. In a judgment of 25 April 2002 (case C-52/00) the Court of Justice of the European Communities established that the Directive seeks to achieve, in the matters regulated by it, complete harmonisation of the laws, regulations and administrative provisions of the Member States, cf. also judgments of the same date in cases C-154/00 and C-183/00. Furthermore, the Court of Justice also established in case C-52/00 that a national legislation providing that the supplier of a defective product is to be liable in all cases and on the same basis as the producer constitutes a violation of the Directive.

6. Thus, it seems that Member States may no longer lay down rules on liability of suppliers, i.e. persons who operate in the chain of distribution, based on the same ground as the liability system in the Directive concerning liability of producers. Except for cases provided for in Article 3(3) a system of liability of suppliers based on strict liability therefore seems to be precluded.

7. This legal situation gives rise to concern, since as pointed out in paragraph 3 the Directive does not, apart from Article 3(3), contain provisions concerning the liability of the supplier.

8. The possibility to lay down rules on liability of suppliers, including rules on strict liability, could involve benefits to the consumers, regardless of whether these rules are laid down at national or Community level. In relevant cases the consumer would then be able to raise his claim against the producer, subsequent suppliers, including the seller of the product, or them all. This could improve consumer's possibility of actually obtaining compensation.

The Council also recalls that one of the general objectives of the Community is to promote consumer interests and ensure a high level of consumer protection, cf. Articles 95 and 153 of the Treaty.

9. THE COUNCIL CONSIDERS that against this background there is a need to assess whether Directive 85/374/EEC, as amended by Directive 1999/34/EC, should be modified in such a way as to allow for national rules on liability of suppliers based on the same ground as the liability system in the Directive concerning liability of producers."
EDUCATION, CULTURE AND YOUTH

European added value and mobility of persons and circulation of works in the cultural sector - Council resolution

The Council adopted the following resolution:

"THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING that the Council on 25 June 2002 adopted a Resolution on a work plan for the European cooperation in the field of culture, and that this work plan includes as priorities the question of analysing and developing methods to identify and evaluate the added value of European actions in the field of culture, as well as the development and promotion of mobility of persons and circulation of works in the cultural sector;

2. FINDING that European added value is a basic and decisive concept in European cultural cooperation, as well as an overall condition for Community cultural action and that it is therefore also an important premise for the continuation of the work plan in the field of culture;

3. FINDING that further promotion of mobility of persons and circulation of works in the cultural sector is an issue of great importance to the future of cultural cooperation, as well as being a crucial measure in achieving European added value and that it thereby furthers the development of a cultural area common to the peoples in Europe;

4. TAKING INTO ACCOUNT the fact that the enlargement of the European Union increases the relevance and importance of dealing with both the concept of European added value and the question of mobility of persons and circulation of works;

European added value

5. FINDING that in accordance with the principle of the Treaty establishing the European Community concerning subsidiarity, the European added value of Community cultural actions is to be found in the actions that cannot be sufficiently undertaken at Member State level and therefore, by reason of scale or effects, are better undertaken by the Community;

6. STRESSSES that highlighting the concept of European added value has a significant impact on future European cultural cooperation by making cultural actions more consistent, structured, and visible;

7. AGREES that the European added value of Community cultural action is generally understood as the synergy effects which emerge from European cooperation and which constitute a distinctive European dimension in addition to Member State level actions and policies in the field of culture;

8. AGREES that European added value is a dynamic concept and should therefore be implemented in a flexible way;
9. AGREES consequently that the European added value of cultural actions can be identified and evaluated cumulatively through the following points:

(i) Actions that encourage cooperation between Member States.
(ii) Actions that have a clear multilateral character.
(iii) Actions with objectives and effects that are better achieved at Community level than at Member State level.
(iv) Actions that address, reach and benefit primarily citizens in Europe, and furthermore enhance mutual knowledge of cultures.
(v) Actions that aim at being sustainable and at constituting a long-term contribution to the development of cooperation, integration, and cultures in Europe.
(vi) Actions that aim at broad visibility and accessibility;

10. INVITES the Member States and the Commission within their competences and responsibilities, to take into account the content of point 9 in order to achieve and ensure European added value in Community cultural action;

11. AGREES that the Council, until the end of 2004, should take stock of the follow up to points 9 and 10 and INVITES the Commission, in line with its competences, to participate in this process;

II

Mobility of persons and circulation of works in the cultural sector

12. RECALLING that the Council and the European Parliament on several occasions have stressed the importance of measures to promote mobility within the cultural sector – most recently in the Council Resolution of 17 December 1999 on free movement and the European Parliament Resolution of 5 September 2001 on cultural cooperation in the European Union;

13. NOTING, inter alia, the report on The Exploitation and the Development of Job Potential in the Cultural Sector in the Age of Digitalisation and the study on Mobility and Free Movement of People and Products in the Cultural Sector, both published by the Commission, in June 2001 and June 2002 respectively, as well as the expert seminar on mobility in Århus in September 2002;

14. STRESSES that promotion of mobility of persons and circulation of works in the cultural sector are decisive factors in the dissemination of knowledge, experience, mutual inspiration, and cooperation. The issue of mobility and circulation will thus be an important tool to communicate the diversity of cultures in Europe and strengthen the cultural cooperation;

15. STRESSES that cultural industries in recent years have experienced major growth with increasing relevance to European economy and employment;

16. STRESSES that the cultural sector in Europe is characterised by a large number of small and medium-sized enterprises as well as various forms of employment and self-employment, and therefore the sector has a special need for networking, coordination, and dissemination of knowledge and information;

17. TAKING INTO ACCOUNT that some obstacles to mobility as well as ways to increase mobility apply specifically to the cultural sector, while most issues are to be dealt with in a broader and horizontal context, as mentioned for instance in the Conclusions of the European Council in Barcelona 15-16 March 2002;
18. UNDERLINES that – in accordance with the Treaty establishing the European Community – the Community is to take cultural aspects into account in its action and should therefore contribute to the creation of the necessary environment for increased mobility, NOTES the relevant activities already underway in a number of fora at Community level, and STRESSES the need for complementarity between them;

19. AGREES that the issues listed in the Annex form a basis for further initiatives and actions, and that the Council should regularly take stock of the work done until the end of 2004, including horizontal consideration of the relevant work in other policy areas, and INVITES the Commission, in line with its competences, to participate in this process;

20. INVITES THE MEMBER STATES AND THE COMMISSION, according to their respective competences, after due examination, to take concrete measures on Community and/or Member State level in order to ease or promote the mobility of persons and circulation of works in the cultural sector."

Interactive Media Content in Europe - Council Resolution

The Council adopted the following Resolution:

"THE COUNCIL OF THE EUROPEAN UNION,

1. NOTES the extensive use of interactive media especially among the younger generations whose everyday life, conditions and education are increasingly influenced by computers, internet and mobile communication services.

2. NOTES that the skills required in the information society are changing from passive reception of knowledge to active exploration and problem solving.

3. NOTES that interactive media can play an important role for individual enlightenment, innovation in the public and private sector and cultural diversity. The cultural and linguistic diversity in Europe can and should manifest itself in the interactive media content of the future for the benefit of the continued development of cultures in Europe.

4. NOTES that creative interactive media content at both a European and a global level constitute an important and growing market.

5. RECALLS the strategic goal set by the European Council in Lisbon on 23 and 24 March 2000 that the European Union should "become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion".

6. RECALLS that the Council on several occasions has stressed the importance of the creative industries – most recently the Council Resolution of 25 June 2002 on a new work plan on European cooperation in the field of culture includes as priority topics encouragement to the development of cultural and creative industries in the Community and development and promotion of mobility of persons and circulation of works in the cultural sector.

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1 OJ C 162, 6.7.2002, p.5
7. WELCOMES the relevant studies and activities already underway in the Community as well as at Member State level.

8. STRESSES THE IMPORTANCE in the light of the development of the knowledge society and the development of cultural and creative industries to ensure quality in the content for the new media by combining artistic freedom, creativity, innovation as well as cultural and linguistic diversity. This is a cultural and audiovisual policy challenge that can also be viewed in connection with an industrial policy objective of promoting innovation and securing European businesses a fair share of the market for interactive media content.

9. STRESSES THE IMPORTANCE of consumer protection and youth protection in this context as well as the need to promote access of all citizens to interactive media.

10. CONSIDERS that because interactive media content is a growth sector with wide-ranging cultural and media policy perspectives but still largely at an initial stage when it comes to investments and revenues, there is a need for a stronger focus within both public and private sectors on such content as a new cultural, audiovisual and business phenomenon.

11. RECOGNISES that the European interactive media content industries have a large development potential, contain a high proportion of small and medium sized companies and need to attract finance to underpin their potential.

12. RECOGNISES the importance of public service broadcasters for the development of interactive media content.

13. CONSIDERS that in order to combine cultural diversity and a coherent and integrated European market for interactive cultural content it would be advantageous to focus inter alia on:
   • Frameworks for transnational European networks of professionals contributing to the diffusion of successes, experiences and development of competence within the interactive media content industries in Europe,
   • Availability and adequacy of financing for the development of creative interactive media content in order to strengthen the market position of European interactive media content producers,
   • Distribution and marketing of European interactive media content.
14. INVITES Member States and the Commission, according to their respective competences, to

- Collect information and experience as well as monitor the development of interactive media content production,
- Consider if on the basis of national experiences and actions there is need for initiatives to exchange good practice about the cultural, economic and social dimension of interactive media content,
- Consider how interactive media content industries could benefit from enhanced possibilities to network in order to promote competence development,
- Consider if interactive content poses specific challenges for existing national or Community actions within development, distribution and marketing,
- Consider how interactive media content should be used for promoting and disseminating the cultural and linguistic diversity of Europe,
- Consider how the interests of consumers, in particular of young people, are to be taken into account.

15. INVITES the Commission to consider the cultural, linguistic and economic challenges that interactive media content poses at European level and to assess if there is need for adjusted, supplementary or new Community actions to ensure the cultural diversity and the economic development of the sector."

Directive "Television without frontiers" - Council conclusions

"THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLS the meeting of the Council of 23 May 2002 which highlighted the broad consensus that there is a need for extensive preparation before the elaboration of any future proposals concerning the Directive.

2. POINTS OUT the importance of building, inter alia, upon Member States' experience in the area, including in the field of statutory legislation, co-regulation, and self-regulation.

3. WISHES to emphasise the importance of upholding the dual cultural and economic dimension of television broadcasting media, and finds it fruitful to exchange views on current experiences.

4. RECALLS the underlying principles on which the Directive is based, some of which can be summarised as follows:
   – to ensure the free movement of television broadcasting services in the Community, on the basis of the country of origin principle,
   – to promote cultural and linguistic diversity and the strengthening of the European audiovisual industry,
   – to reinforce the indispensable role of television broadcasting in the democratic, social, and cultural life of society.

5. UNDERLINES that, in order to set up a regulatory framework favourable to the development of the sector and to facilitate access of citizens to a wide choice of television programmes from different Member States, it is important that the Commission in its reflections, inter alia on the basis of the experience of Member States, also consider if there is a need to take into account other developments of importance to the broadcasting sector, especially the implications of new means of delivery of audiovisual content, for example interactive media.
6. LOOKS FORWARD to the Commission's forthcoming report on the application of the TWF Directive, and to in-depth discussions in the preparation by the Commission of any future proposals concerning the Directive, in particular in the Contact Committee, which has been set up, inter alia, to discuss questions pertaining to the Directive.

7. EXPRESSES its intention to take stock regularly of the progress of these discussions."

Promotion of Enhanced European Cooperation in Vocational Education and Training

"THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

(1) Education and training are indispensable means for promoting employability, social cohesion, active citizenship, and personal as well as professional fulfilment.

(2) Vocational education and training systems play a key role in providing competences and qualifications. Developing a knowledge-based Europe is a major challenge to the vocational educational and training systems in Europe and to all actors involved. In this context it is important to ensure that the European labour market is open and accessible to all.

(3) Vocational education and training in the European Union comprise a wide diversity of legislation, education and training structures and key actors including both governments and the social partners and the enlargement of the Union will increase this diversity. Creating a European area of knowledge is the way both to build on this diversity, but also to sustain and protect it.

(4) The action set out in this resolution respects the Charter of Fundamental Rights of the European Union, and in particular its Article 14, which declares that everyone has the right to education and to have access to vocational and continuing training.

(5) The Lisbon European Council in March 2000 recognised the important role of education as an integral part of economic and social policies, as an instrument for strengthening Europe's competitive power world-wide, and as a guarantee for ensuring the cohesion of our societies and the full development of its citizens. The European Council set the strategic objective for the European Union to become the world’s most dynamic knowledge-based economy. The development of high quality vocational education and training is a crucial and integral part of this strategy, notably in terms of promoting social inclusion, cohesion, mobility, employability and competitiveness.

(6) The report on the "Concrete Future Objectives of Education and Training Systems", endorsed by the Stockholm European Council in March 2001, identified new areas for joint actions at European level in order to achieve the goals set at the Lisbon European Council. These areas are based on the three strategic objectives of the report, namely improving the quality and effectiveness of education and training systems in the European Union, facilitating access for all to education and training systems, and opening up education and training systems to the wider world.


(8) In Barcelona, in March 2002 the European Council endorsed the Work Programme on the follow-up of the Objectives Report calling for European education and training to become a world quality reference by 2010. Furthermore, it called for further action to introduce instruments to ensure the transparency of diplomas and qualifications, including by promoting action similar to the Bologna-process, but adapted to the field of vocational education and training.

(9) The Resolution on Lifelong Learning 2 was adopted by the Council on 27 June 2002. In particular, under the priority of valuing learning, the Resolution, responding to the Lisbon and Barcelona conclusions, forms a basis for the initiative towards closer cooperation in vocational education and training, inter alia in the fields of transparency, recognition and transferability, quality and transnational projects. This was previously confirmed by the Resolution on skills and mobility 3 adopted by the Council on 3 June 2002,

NOTES that the transition towards a knowledge-based economy capable of sustainable economic growth with more and better jobs and greater social cohesion brings new challenges to the development of human resources;

NOTES that the adaptability and employability of young people and adults, including older workers, depend strongly on access to high quality initial education and training and the opportunity to update and acquire new skills throughout working life;

NOTES that increased cooperation in European vocational education and training at all levels, including formal and non-formal learning, must be pursued within a lifelong learning perspective, emphasising the need for appropriate links between initial and continuing education and training. These links are necessary to overcome fragmentation between different forms of provision and to make full use of the positive diversity of vocational education and training currently to be found within Europe;

NOTES the relevant activities already under way in a number of Community agencies, for example CEDEFOP and the European Training Foundation, informal fora at Community level, for example, the meetings of the Directors General for Vocational Training, the existing Fora on Transparency and Quality, as well as within relevant international organisations and stresses the need for complementarity between them;

NOTES that the European social partners have agreed in the context of the European social dialogue on a framework of actions for the lifelong development of competences and qualifications. The member organisations of the European social partners will promote this framework in Member States at all appropriate levels, taking account of national policies and practices;

NOTES that the conference on "Increased cooperation in vocational education and training" in Brussels June 2002 with the participation of Member States, the Commission, candidate countries, EEA-countries and the social partners, highlighted certain working principles and priorities for increased cooperation in vocational education and training;

STRESSES that it is necessary to strengthen and develop closer European cooperation in vocational education and training to support the idea that citizens can move freely between different jobs, regions, sectors and countries in Europe;

STRESSES that there is a need to improve the quality and attractiveness of vocational education and training in Europe;

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STRESSES that enhanced cooperation should be based inter alia on the following working principles:

- cooperation should be based on the target of 2010, set by the European Council in accordance with the detailed work programme and the follow-up of the Objectives report in order to ensure coherence with the objectives set by the Council;
- measures should be voluntary and principally developed through bottom-up cooperation;
- initiatives must be focused on the needs of citizens and user organisations;
- cooperation should be inclusive and involve Member States, the Commission, candidate countries, EFTA-EEA-countries and the social partners;

STRESSES that within this closer cooperation special consideration should be given to the principle of gender mainstreaming and social inclusion.

REAFFIRMS:

1. Its commitment to enhanced cooperation in vocational education and training in order to remove obstacles to occupational and geographic mobility and promote access to lifelong learning. This involves taking steps to increase transparency and recognition of competences and qualifications within vocational education and training systems and to promote closer cooperation regarding quality in European vocational education and training systems as a sound basis for mutual trust.

2. That further cooperation in vocational education and training should be enhanced by the actions and policies developed primarily in the context of the report on the Concrete Future Objectives of Education and Training Systems’, taking into account the Resolution on Lifelong Learning, but also in the context of the European Employment Strategy. Important means to achieve these ends are the Community education and training instruments in particular the Leonardo da Vinci Programme, the European Social Fund, and initiatives for e-learning and foreign languages.

ACKNOWLEDGES that priority should be given to the following:

European dimension

- Strengthening the European dimension in vocational education and training with the aim of improving closer cooperation in order to facilitate and promote mobility and the development of inter-institutional cooperation, partnerships and other transnational initiatives, all in order to raise the profile of the European education and training area in an international context so that Europe will be recognised as a world-wide reference for learners.

Transparency, information and guidance

- Increasing transparency in vocational education and training through the implementation and rationalisation of information tools and networks, including the integration of existing instruments such as the European CV, certificate and diploma supplements, the Common European framework of reference for languages and the EUROPASS into one single framework.
- Strengthening policies, systems and practices that support information, guidance and counselling in the Member States, at all levels of education, training and employment, particularly on issues concerning access to learning, vocational education and training, and the transferability and recognition of competences and qualifications, in order to support occupational and geographical mobility of citizens in Europe.
Recognition of competences and qualifications

- Investigating how transparency, comparability, transferability and recognition of competences and/or qualifications, between different countries and at different levels, could be promoted by developing reference levels, common principles for certification, and common measures, including a credit transfer system for vocational education and training.
- Increasing support to the development of competences and qualifications at sectoral level, by reinforcing cooperation and co-ordination especially involving the social partners. Several initiatives on a Community, bilateral and multilateral basis, including those already identified in various sectors aiming at mutually recognised qualifications, illustrate this approach.
- Developing a set of common principles regarding validation of non-formal and informal learning with the aim of ensuring greater compatibility between approaches in different countries and at different levels.

Quality assurance

- Promoting cooperation in quality assurance with particular focus on exchange of models and methods, as well as common criteria and principles for quality in vocational education and training.
- Giving attention to the learning needs of teachers and trainers within all forms of vocational education and training.

INVITES THE MEMBER STATES AND THE COMMISSION WITHIN THE FRAMEWORK OF THEIR RESPONSIBILITIES:

- to take the appropriate steps to initiate the implementation of the priorities set out in this resolution;
- to build on and adapt existing structures and instruments in Europe relevant to the above priorities, and establish, where appropriate, links with work in the context of the Bologna declaration;
- fully to involve the key players, particularly the social partners, and the Advisory Committee on Vocational Training;
- to involve, in accordance with existing objectives and agreements, the candidate and EFTA-EEA countries in this process;
- to enhance cooperation, where appropriate, with relevant international organisations in particular, the OECD, UNESCO, ILO and the Council of Europe in the development of vocational education and training policies and concrete actions;
- to submit a progress report as part of the report on the follow-up of the future objectives of education and training systems as requested by the European Council for its Spring meeting of 2004."
**APPOINTMENTS**

Committee of the Regions  
(*Doc. 15084/02*)

The Council adopted a Decision, following a proposal from the Irish Government, appointing Ms Josie CONNEELY as a full member of the Committee of the Regions in place of Mr Sean O'NEACHTAIN for the remainder of his term of office, which runs until 25 January 2006.

**TRANSPARENCY**

Public access to Council documents  
(*doc. 14692/02*).

The Council adopted a reply to the confirmatory application made by MEP Maurizio TURCO (the Danish, Dutch, Finnish and Swedish delegations voting against).