DRAFT MINUTES ¹

Subject 2436th meeting of the Council (Justice, Home Affairs and Civil Protection), held in Luxembourg on 13 June 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**  
   9824/02 OJ/CONS 34 JAI 131
   
   The Council adopted the above agenda.

2. **Approval of the list of A-items**  
   9825/02 PTS A 31  
   + COR 1  
   + ADD 1
   
   The Council approved the "A" items listed in 9825/02, except for items 23, 24 and 25, and in 9825/02 ADD 1, except for item 45.

   Addendum 1 to these minutes gives information on items 7, 17, 18, 19, 27, 28, 29, 30, 31, 32, 40 and 42 on that list.

   Furthermore, the reference documents for items 11, 13, 40 and 42 should read as follows:

   11.
   8902/1/02 SCH-EVAL 15 COMIX 317 REV 1 **RESTREINT**  
   + COR 1 *(fr,en,sv)*  
   9575/02 SCH-EVAL 16 COMIX 382

   13.
   5985/02 EVAL 7 ELARG 27  
   13082/3/01 EVAL 37 ELARG 252 REV 3 **RESTREINT**  
   + REV 3 COR 1 (en)  
   + REV 3 COR 2 (en)

   40.
   7252/02 COPEN 22 CATS 8  
   + REV 1 *(it)*  
   7253/02 COPEN 23 CATS 9  
   + COR 1 (es)  
   + COR 2 *(pt)*  
   + COR 3 *(sv)*  
   + COR 4 *(fi)*  
   + COR 5 *(nl)*  
   + COR 6 *(de)*  
   + COR 7 *(fr,it,el)*  
   + COR 8 *(en)*  
   + COR 9 *(el)*
3. Terrorism
   a) Threat assessment and Strategic document
   b) Europol Task Force (Information point)
   c) Security Measures since 11 September 2001
   d) Other items linked to fighting terrorism

The Council took note of the documents mentioned above concerning threat assessment and strategy and the updated list of terrorist organisations. The Council also took note of two documents established by Europol on national security measures since 11 September and on Islamic extremist terrorism and heard a presentation by Mr. Storbeck, Director of Europol, on the activities of the Europol Task Force.

4. Activities of the Spanish Presidency on the subject of violence against women, to be submitted by the Ministers of Education, Justice, Home Affairs and Health at forthcoming Councils (Information point)

The Council heard an oral presentation from the Presidency on its activities on the subject of violence against women and the results of the Ministerial Conference on this subject held in St. Jacques de Compostelle in February 2002. The Council also took note of the results of a study and a guide of best practices presented by the Presidency.
5. **Illegal immigration and external borders**
   a) **Report of the Presidency on the progress in the fight against illegal immigration**
      9821/02 JAI 130 MIGR 53 + ADD 1
   b) **Measures to be established for the prevention and the fight against illegal immigration and trafficking of human beings by sea**
      9796/1/02 REV 1 JAI 129 RELEX 112 MIGR 52
   c) **Integrated management of the external borders**
      9834/1/02 REV 1 FRONT 55 COMIX 392

The Council held a detailed debate on the problems concerning illegal immigration and the management of the external borders of the Member States of the European Union. This debate revealed in particular the need to follow a balanced and consistent approach to all issues relating to legal immigration, asylum policy and the fight against illegal immigration, as well as the need to set rapidly concrete deadlines for implementing operational measures.

Following the debate, the Council:
- took note of a Presidency report on progress in the fight against illegal immigration as set out in 9821/02 JAI 130 MIGR 53 + ADD 1;
- approved conclusions on the measures to be applied to prevent and combat illegal immigration and trafficking of human beings by sea, as set out in Annex I;
- adopted a plan for the integrated management of external borders and agreed to include the statement set out in Annex II.

6. **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 held a debate on certain fundamental questions identified by the Presidency on the 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, noting in particular the link with the question of illegal immigration. The Council instructed the Permanent Representatives Committee to continue its work on the basis on the outcome of its debate with a view to reaching agreement on this dossier in the near future.
7. **Initiative of the Kingdom of Spain with a view to adoption of a Council 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**

7756/3/02 REV 3 CATS 18 RELEX 50

The outcome of proceedings on this item is found in 7756/4/02 CATS 18 RELEX 50 REV 4.

8. **Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking**

9718/1/02 REV 1 DROIPEN 37 CORDROGUE 45

The outcome of proceedings on this item is found in 10321/02 DROIPEN 42 CORDROGUE 47 + COR 1.


9241/02 JUSTCIV 78
7862/02 JUR 143 JUSTCIV 48
5513/02 JUSTCIV 7

The Council agreed that the scope of the draft Directive should be limited to cases of legal assistance with cross-border implications and that work should be pursued on the basis of 7938/02 JUSTCIV 49.

10. **Proposal for a Council Regulation creating a European enforcement order for uncontested claims**

8465/02 JUSTCIV 66

Commissioner Vitorino presented the proposal for a Council Regulation as contained in 8465/02 JUSTCIV 66.

The Danish, Portuguese and Finnish delegations welcomed the proposal and underlined that it should be seen as a first step towards implementation of the principle of mutual recognition as agreed by the European Council at Tampere.
11. **Civilian aspects of crisis management/Rule of Law commitment Conference (Information Point)**

The Council took note of an oral report by the Presidency on the results of the Rule of Law Commitment Conference held on 16 May 2002.

12. **Other business**

- **scoreboard**  
  9704/02 JAI 126

The Council took note of an oral presentation by Commissioner Vitorino concerning the six-monthly update of the scoreboard to review progress on the creation of an area of "freedom, security and justice" in the European Union.
Re: Item 5 b) on the agenda

ANNEX I

CONCLUSIONS ON MEASURES TO BE APPLIED
TO PREVENT AND COMBAT ILLEGAL IMMIGRATION
AND TRAFFICKING OF HUMAN BEINGS BY SEA

"1. INTEGRATED APPROACH

Combating illegal immigration with an integrated approach requires an increased effort from the European Union to prevent it and to approach the phenomenon in an appropriate way, using all the appropriate instruments at its disposal in the framework of EU external relations. In this context, administrative capacity building as well as the adoption of appropriate legislation on asylum and migration issues by third countries concerned are of significant importance. Specific attention should also be paid to the role of candidate countries.

European Union actions on combatting illegal immigration will be in accordance with international human rights principles and obligations, and in particular the 1951 Geneva Convention relating to the Status of Refugees, as supplemented by the 1967 New York Protocol.

Combating illegal immigration and smuggling and trafficking in human beings will thus be a priority objective of the European Union, and must be integrated to a greater extent into the European Union's external relations, by the following means:

1.1. The fight against illegal immigration must be considered as an important aspect in conjunction with legal and political instruments currently being negotiated or to be negotiated in the future between the European Union and third countries.

1.2. A systematic assessment of relations with third countries which do not cooperate in combating illegal immigration, on the basis of a report by the High Level Working Group on Asylum and Migration.

This assessment should be taken into account in relations between the European Union and its Member States and the countries concerned, in all relevant areas.
1.3. An early political response by the European Union in the event of the arrival of flows of immigrants entering illegally, consisting of measures regarding the countries of boarding, departure or transit.

1.4. Support for third countries that are willing to cooperate with the European Union in:

1.4.1. Control and interception of vessels involved in smuggling and trafficking in human beings.

1.4.2. Readmission of immigrants who have arrived illegally in the European Union from such countries.

The European Union and its Member States, in their respective fields of competence, will consider offering, among others, resources and technical support to countries of boarding, departure or transit, to help them to apply the measures set out in section 3, without prejudice to other European Union policies that tend towards a global and balanced approach to the migratory phenomenon, with a view to joint control of migration flows. The assistance mentioned will be provided in line with the willingness and needs of the authorities in the countries of boarding, departure or transit of the migration flows to cooperate, in particular in readmission, with the European Union.

2. OPERATIONAL MEASURES BY THE EUROPEAN UNION AND ITS MEMBER STATES

Without prejudice to the future outcome of the feasibility study of the Commission, in the framework of the Comprehensive Plan to combat illegal immigration and trafficking in human beings, controls at external sea borders must be reinforced, on the basis of implementation by the European Union and its Member States of the following operational measures:

2.1. Systematic cooperation between the Member States and coordination with all the competent Authorities in view of possible joint operations in order to control sea borders and vessels suspected of being involved in smuggling and trafficking in human beings.

2.2. Increasing the focus on the work of liaison officers posted in the countries of boarding, departure or transit of immigrants who may illegally enter the European Union.

2.3. Improvement of the existing procedure for operating the Early Warning System.

2.4. Strengthening of Europol involvement in accordance with the Europol Convention, with the aim of collecting, classifying, analysing and providing the information available on
the crimes of smuggling and trafficking in human beings in relation to illegal immigration by sea, including, as appropriate, the development of a database. Cooperation of national police services with Europol should be strengthened.

2.5. The creation of joint investigation teams for concerted and effective action against organised networks and groups involved in smuggling and trafficking in human beings.

2.6. Use of appropriate measures to identify vessels in risk zones.

2.7. Operations both joint and carried on by individual Member States in maritime air patrolling and surveillance.

2.8. Adoption of European Union instruments concerning unauthorised entry, transit and residence.

3. PREVENTIVE MEASURES WHICH SHOULD BE ADOPTED BY THE COUNTRIES OF BOARDING, DEPARTURE OR TRANSIT

The countries of boarding, departure or transit of the vessels should adopt the measures necessary to prevent and combat smuggling and trafficking in human beings by sea.

Failure of those countries to adopt such measures without good reason may give rise, in particularly serious cases, or for repeated minor incidents, to appropriate early political response, as referred to in point 1.3.

The measures to be adopted by countries of boarding, departure or transit should include the following:


3.2. Making the smuggling and trafficking in human beings subject to criminal penalties, also involving confiscation of vessels used in such smuggling or trafficking, in its domestic legislation.

3.3. Imposing criminal penalties for conduct relating to the falsification and fraudulent use of travel documents.
3.4. Promoting or facilitating the running of awareness-raising campaigns, which will have the support of the European Union or its Member States, aimed at creating awareness of the problems and risks connected with illegal immigration.

3.5. An increase in control measures at sea borders for vessels suspected of being involved in smuggling or trafficking in human beings must be complemented by police controls inside national territory, aimed at breaking down networks of smugglers or traffickers in human beings, in line with the international instruments referred to in section 3.1.

3.6. Strengthening control measures at their borders, to prevent entry of persons wishing to use their territory as a transit path to move illegally towards European Union Member States, including possible adaptations of their visa system.

3.7. Cooperation with the border services of the European Union Member States to exchange information on vessels involved in smuggling and trafficking in human beings.

   In this context, it will be necessary to intensify cooperation, so as to allow for the presence on the ground of liaison officers at ports and border posts.

3.8. A willingness to accept a readmission obligation in respect of any immigrants who illegally enter the European Union by sea and whose departure from or transit through the country in question can be adequately demonstrated.

3.9. Each country concerned should comply with the international maritime obligations for Search and Rescue Operations according to the International law and practice."
ANNEX II

Re: Item 5 c) of the agenda

INTEGRATED MANAGEMENT OF EXTERNAL BORDERS
OF MEMBER STATES OF THE EUROPEAN UNION

STATEMENT TO THE COUNCIL MINUTES

"The Council stresses the need for immediate action to ensure a higher level of protection of the external borders of the Member States of the European Union.

Within the institutional framework of the European Union, concrete initiatives, as described in the plan for the management of the external borders of the Member States of the European Union, by a limited number of Member States, taking into account the specific needs identified, are welcomed, with due regard for the coordinating role of the external borders common unit. These initiatives will be open to participation of other Member States. They shall be in line with the general Community objective of ensuring that an equivalent level of control and surveillance is exercised everywhere at the external borders."

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