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NOTE

from:	Presidency
to:	COREPER / Council (Mixed Committee)
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Subject:	Draft Council Conclusions regarding guidelines for the strengthening of political governance in the Schengen cooperation

Delegations will find below draft Council Conclusions regarding guidelines for the strengthening of political governance in the Schengen cooperation.

This draft takes into account the outcome of the discussions at the JHA Counsellors at their meetings on 17 and 27 February 2012.

The Presidency is submitting the draft Council Conclusions to COREPER on 6 March 2012 for agreement and to the Council (Justice and Home Affairs) on 8 March 2012 for adoption.

**Draft Council Conclusions
regarding guidelines for the strengthening of
political governance in the Schengen cooperation**

- a) *Underlining that free movement is a defining principle of the European Union;*
- b) *Stressing that the absence of any controls on persons when crossing internal borders within the Schengen area is one of the most tangible European achievements;*

- c) *Basing itself on the European Council Conclusions from June 2011 stating that political guidance and cooperation in the Schengen area need to be further strengthened, enhancing mutual trust between Member States, which are equally responsible for guaranteeing that all Schengen rules are applied effectively in accordance with the agreed common standards and with fundamental principles and norms;*
- d) *Underlining the importance of ensuring that the strategic policy development in **the Schengen cooperation is determined at the appropriate political level** as well as the analysis of specific situations having a substantial impact on the whole Schengen area and the decisions to be taken in this regard;*
- e) *Taking note of the Commission Communication of 16 September 2011 on Schengen governance - strengthening the area without internal border control, where the Commission states its intention to present a biannual overview to the European Union institutions on the functioning of Schengen;*
- f) *Underlining that Europe's external borders must be effectively and consistently managed, on the basis of the principle of solidarity and fair sharing of responsibility, mutual trust and increased practical cooperation;*
- g) *Underlining the need to take action to effectively contribute to the prevention and deterrence of illegal immigration;*
- h) *Underlining that an early agreement on the proposals concerning the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis and the amendment of Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances would contribute to the reinforcement of the Schengen governance;*
- i) *Bearing in mind the informal discussions with input from Member States at the meeting of the Council (Justice and Home Affairs) on 13 December 2011, and the invitation made to the Danish Presidency to follow up and establish guidelines for increased political steering of developments in the Schengen area.*

THE COUNCIL ADOPTS THE FOLLOWING CONCLUSIONS:

1. **The Mixed Committee, made up of the EU Member States and the Schengen associated States, should at Ministerial level provide the necessary political guidance for the Schengen area.** The agenda and the organisation of its meetings should allow for political discussions focused on key topics related to the correct functioning of the Schengen area, including guidance with regard to the support to be provided by EU agencies, with a view to the Council taking decisions within the scope of its competence to ensure the efficient functioning of the Schengen area.
2. The political discussions in the Mixed Committee should also focus on situations where

evaluation reports have shown serious shortcomings, including special measures to be implemented, without prejudice to the applicable procedures for EU agencies and the competencies of each Member State. The fulfilment of agreed action plans aimed at tackling shortcomings and their implementation should also be discussed.

3. The Council welcomes the Commission's intention to present regular reports to the European Parliament and to the Council on the functioning of the Schengen cooperation and the application of the Schengen acquis at least once every year.

4. The Commission's first report should – together with specific suggestions from Member States or relevant EU agencies – form the basis for a political and strategic discussion in the Mixed Committee at Ministerial level in June 2012. Such political and strategic discussions should take place once during each Presidency and, where appropriate, be based on the reports from the Commission.

5. The Commission is also invited, where relevant, to address in its reports how Schengen related shortcomings could be remedied, and, where appropriate, to give an indication of possible solutions at the practical and operational level or submit new initiatives, including legislative proposals to address these shortcomings.

6. **The Council welcomes the intention of the Commission to present the first report in May 2012.** The reports should be brief, concise and provide an overview of the main trends and recent developments regarding Schengen cooperation, including analysis of causes. In addition, identified weaknesses and/or threats that could affect the functioning of the Schengen area in the short term should be presented in order for the Council to consider preventive actions. The overview should highlight matters which the Commission considers most relevant for the political and strategic discussion, such as:

- a. Implementation of the relevant Schengen acquis and of key policy guidelines set out by the European Council or the Council as well as action plans adopted by the Council such as the Schengen related aspects of the 29 measures for reinforcing the protection of the external borders and combating illegal immigration, and Schengen related aspects in the fight against serious and organised crime;
- b. Possible conclusions to be drawn from the functioning and the development of relevant ongoing and future IT projects and tools;
- c. Selected findings from evaluation reports and key recommendations adopted in the context of the Schengen evaluation mechanism on selected issues such as controls at the external borders, visa processing at consular posts, data protection, in particular when the reports point at serious shortcomings;
- d. Application of the Schengen acquis at internal borders, as well as cases of temporary introduction of controls at internal borders;

- e. Challenges linked to current and possible foreseen migration flows and external borders particular prone to pressure from illegal migration flows as well as proposals for possible ways for their prevention and deterrence;
- f. Challenges in the Schengen relevant cooperation with key countries of origin and transit;
- g. Visa facilitation and liberalisation and their consequences.

7. The Council invites the European Parliament also to make full use of the Commission reports as it deems appropriate, taking into consideration the sensitivity of the information contained in the reports.