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NOTE

from : Presidency

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No. Cion prop. : 10279/02 ASILE 33 + REV 1 (de, en, fr) - COM(2002) 326 final/2

Subject : Amended proposal for a Council Directive on minimum standards on procedures
in Member States for granting and withdrawing refugee status
- Minimum common list of safe countries of origin

Delegations will find attached a complement to the reply from the **Commission** concerning Cape Verde, Mauritius and Botswana.

Assessment template

Name of Member State	European Commission
Name of country for designation	CAPE VERDE

QUESTIONS	YES/NO	BASIS FOR RESPONSE	Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available
1. Does the country have a democratic system in place?	Yes	.Multiparty Parliamentary Democracy	
2. Is there a situation of internal or international armed conflict in the country?	No		

3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes		
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	Yes		
5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?		N/A	
6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?			
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes with reservations	<ul style="list-style-type: none"> • Revised penal Code protects certain rights of the victims of sexual abuse but did not ensure compensation • Government rarely enforces law prohibiting child labour.

(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention			
(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes		
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes with res erv ati on	Investigation into allegations of human rights abuses by police, did not result in any legal action against the perpetrators	

OVERALL ASSESSMENT		
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?		Insert basis for response
	Yes	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		
3. Is the country suitable for inclusion on the minimum common list?		Insert basis for response
	Yes	

NOTE : The above assessment is a technical assessment by Commission services (Brussels and Delegation).

Most of the information used comes from the country strategy paper (available at <http://europa.eu.int/comm/world/>) and preparatory documents, country conflict assessment and reports from the delegation and from EU Heads of mission (restricted)

Assessment template

Name of Member State	European Commission
Name of country for designation	MAURITIUS

QUESTIONS	YES/NO	BASIS FOR RESPONSE	Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available
1. Does the country have a democratic system in place?	Yes	Parliamentary Democracy	
2. Is there a situation of internal or international armed conflict in the country?	No		

3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes, with reservations	The reservations relate to the following: <ul style="list-style-type: none"> • Discrimination and violence against women 	
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	Yes, with reservations	The Constitution prohibits arbitrary arrest and detention; there are no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. However, there are reports on <ul style="list-style-type: none"> • Use of force by police to coerce a suspect to sign a confession; • Poor Prison conditions; • Forced Child Prostitution • Child Labour 	
5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	N/A		

6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Yes, with reservations	In particular, the Dangerous Drugs Act allows law enforcement authorities to hold suspects for up to 36 hours without access to bail or legal counsel.	
(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention		There are concerns regarding: <ul style="list-style-type: none"> • Government control of Nation’s television stations • Restrictions on the rights of workers in the export processing zones 	

(c)	respect of the non-refoulement principle according to the Geneva Convention	Yes	Pour mémoire: the law does not provide for granting of refugee or asylum to persons who meet the definition in the 1951 UN Convention relating to the Status of refugees.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes		

OVERALL ASSESSMENT		
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?		Insert basis for response
	No	NGO reports should be taken into consideration.
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		
3. Is the country suitable for inclusion on the minimum common list?	Yes, with reservation	

NOTE : The above assessment is a technical assesment from Commission services and is tentative, due to the limited time available for doing it. Most of the information used comes from the country strategy paper (available at <http://europa.eu.int/comm/world/>) and preparatory documents, country conflict assessment and reports from the delegation and from EU Heads of mission (restricted)

Assessment template:

Name of Member State	European Commission
Name of country for designation	BOTSWANA

QUESTIONS	YES/NO	BASIS FOR RESPONSE	Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available
1. Does the country have a democratic system in place?	Yes	Botswana has a long-standing record of peace and political stability. The country has a multiparty constitutional democracy and free and fair elections are held every five years.	

2. Is there a situation of internal or international armed conflict in the country?	No		
3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	Yes, with reservation	Civil and political rights are entrenched under the Constitution. The latter has a code of fundamental human rights enforced by the courts. There is freedom of association, of worship and of expression. However, concerns are expressed about the fact that homosexuality is illegal and about the death penalty, applied in specific murder cases. Moreover, the dialogue between Government and ethnic minorities needs to be intensified and their constitutional recognition to be formalised. An amendment of the constitution (articles 77-79) is under consideration at present aiming at equal treatment of all ethnic groups (today only 8 out of 18 are officially recognised).	
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	Yes with reservation	<ul style="list-style-type: none"> • Botswana retains the Death Penalty; • Its customary courts administer punishments in the form of lashings, generally against young offenders and • the prison conditions are poor and worsened by increasing number of illegal migrants of Zimbabwean origin. 	

5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?	.N/A		
6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?			
(a)	the relevant laws and regulations of the country and the manner in which they are applied	Generally Yes	<p>In particular, it is to be noted that:</p> <ul style="list-style-type: none"> • The law does not prohibit trafficking in persons • Despite the Prison’s Act, there have been occasionally reports of beating of suspects, prison violence, intimidation to obtain evidence etc.

(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention	Yes		
(c)	respect of the non-refoulement principle according to the Geneva Convention	Generally Yes (but see comment)	There was a case in December 2003 regarding the government's reportedly forcible repatriation of a group of Namibian refugees to Namibia where 7 of the 8 were arrested on charges of high treason for their alleged role in the 1999 Caprivi uprising.	
(d)	provision for a system of effective remedies against violations of these rights and freedoms	Yes, with reservation	No guaranteed legal counsel for defendants in <u>customary</u> courts	

OVERALL ASSESSMENT		
1. Do you consider that the information sources listed at Annex B are		Insert basis for response

<p>sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?</p>	<p>Yes, with reservation</p>	<p>For Botswana Annex B mentions the US Dept.of State Country Report on H.R. Practices as only source of information. For a fully comprehensive assessment other sources available in Member States and within the EC should also be used.</p>
<p>2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).</p>		
<p>3. Is the country suitable for inclusion on the minimum common list?</p>		<p>Insert basis for response</p>

	Yes with reservation	The issue of death penalty has to be monitored. The EU has already done "demarches" for the abolition of death penalty (in accordance with the EU policy guidelines on death penalty), without concrete results until now.
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Most of the information used comes from the country strategy paper (available at <http://europa.eu.int/comm/world/>) and preparatory documents, country conflict assessment and reports from the delegation and from EU Heads of mission (restricted)
