

HOUSE OF LORDS

European Union Committee

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5th Report of Session 2006–07

**After Heiligendamm:  
doors ajar at  
Stratford-upon-Avon**

Report

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Ordered to be printed 30 January 2007 and published 21 February 2007

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Published by the Authority of the House of Lords

*London* : The Stationery Office Limited  
£price

HL Paper 32

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## **FOREWORD—What this Report is about**

Meetings of small groups of Member States to discuss matters of common interest can be valuable in promoting dialogue and facilitating decision-making. The largest Member States have as much right to hold such meetings as the smallest. But this should be limited to agreeing at such meetings matters which should then be properly debated and decided by all the Member States in the full Council of Ministers. The European Parliament and national Parliaments also have a right to be involved in the development of EU law and policy.

In July 2006 we reported on the meeting of the interior ministers of the six largest Member States—the G6—at Heiligendamm in Germany. We were very critical of the secrecy that surrounded this meeting, and the details of what was discussed. In this report we consider the meeting held in October 2006 at Stratford-upon-Avon under United Kingdom chairmanship.

We look in particular at the transparency of these meetings, and at the accountability of United Kingdom ministers to Parliament and the public. We note an improvement, but consider that there is still a lot to do.

# After Heiligendamm: doors ajar at Stratford-upon-Avon

## Introduction

1. The ministers of the interior of the six largest Member States of the EU—the G6—meet every six months to discuss matters of mutual interest. Their meeting in March 2006 under German chairmanship was the subject of our report *Behind Closed Doors: the meeting of the G6 Interior Ministers at Heiligendamm*.<sup>1</sup> In that report we criticised the lack of transparency at that meeting. We were also unhappy that six Member States were taking decisions in the field of justice and home affairs which could not fail to have a major impact on the other nineteen<sup>2</sup> Member States.
2. The Government responded to this report in a letter of 18 October 2006 from Joan Ryan MP, the Parliamentary Under-Secretary of State at the Home Office, to the Chairman of the Sub-Committee which carried out the inquiry. We set that letter out in Appendix 2 to this report.
3. A week after that letter was written the next meeting of the G6 took place. It was again the turn of the United Kingdom to chair the meeting,<sup>3</sup> and the Home Secretary, the Rt Hon Dr John Reid MP, invited his colleagues from Germany, France, Italy, Spain and Poland to Stratford-upon-Avon on 25 and 26 October. The main subjects discussed were, predictably, combating terrorism, organised crime and immigration—topics of critical and current interest to ministers of all EU Member States, and indeed of many other States.
4. In this report we consider the Government response to our earlier report, and developments at the subsequent meeting, under three headings: transparency, the position of the other Member States, and some of the substantive topics discussed.

## Transparency and accountability

5. After the Heiligendamm meeting the Home Office did not issue a press notice, nor divulge any other information. No ministerial statement was made by the then Home Secretary to Parliament. We gleaned information from other sources, in particular from a statement issued after the meeting by the German Ministry of the Interior; but for information from the Home Office we had to await a letter from Dr John Reid to the Chairman of 6 June 2006, and oral evidence given to us by Joan Ryan MP on 28 June 2006, over three months after the meeting.<sup>4</sup>

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<sup>1</sup> 40th Report, Session 2005–06, HL Paper 221, referred to hereafter as the Heiligendamm report.

<sup>2</sup> Now twenty-one, since the accession of Romania and Bulgaria.

<sup>3</sup> The first meeting of the G5 (before Poland joined the Group) was held in France in October 2003. The first meeting in the United Kingdom was chaired by the Rt Hon David Blunkett MP in Sheffield in July 2004. Subsequent meetings were held in Italy (Florence), France (Evian) and Spain (Granada). The meeting of the G6 in Germany (Heiligendamm) was the first attended by Poland. The first meeting in 2007 will be under Italian chairmanship.

<sup>4</sup> Heiligendamm report, Appendix 4, and oral evidence.

6. During that evidence session Ms Ryan assured us that there was no attempt to prevent anyone knowing the conclusions of the G6 meetings, and that publication of the conclusions by the host nation was evidence of this (QQ 92–93). She repeated this in her response. In evidence she said that the Home Office would publish the conclusions of the October meeting (Q 88), and in her response she expanded on this, saying that they would “also publish the conclusions from all future G6 meetings”.
7. The undertaking to publish the conclusions of the Stratford-upon-Avon meeting was repeated in the House of Lords on 26 October 2006, the last day of that meeting. In reply to a starred question from Lord Russell-Johnston, Baroness Scotland of Asthall, the Minister of State at the Home Office, stated: “The conclusions of the meeting will be published on the Home Office website and placed in the Library of the House”. She added that the G6 meetings were “an opportunity for those six Member States to discuss from time to time openly and transparently matters of mutual interest and concern”.<sup>5</sup>
8. Home Office officials sent us a copy of the conclusions the following day, for which we are grateful (see Appendix 3). On 8 November Ms Ryan wrote to the Chairman to inform him that they had been published on the Home Office website and could be accessed at an address she gave.<sup>6</sup> She was no doubt not aware that the version on the website omits the heading “Promoting integration”, the first paragraph of that important section, and the first two lines of the following paragraph. The remainder of that section, as published, is therefore incomprehensible. A further consequence of this omission is that the numbering of the following sections is wrong. Library staff told us that the full conclusions had not been placed in the Library by the Home Office before Prorogation on 8 November; only subsequently were they made available to the Library.
9. Publication of the incomplete conclusions of the Stratford-upon-Avon meeting by the Home Office on their website was not therefore a real improvement on their earlier failure to publish any of the conclusions of the Heiligendamm meeting. Publication of the full text which we were sent was the least we had a right to expect. In our previous report we recommended that G6 meetings should be the subject of a written ministerial statement to Parliament.<sup>7</sup> We do not regard the informal publication of the conclusions of the meeting, even if complete, as an adequate substitute for such a statement.

### **Evidence from the Home Secretary**

10. We hoped to hear oral evidence from the Home Secretary himself, explaining to us more fully the structure of the Stratford-upon-Avon meeting, amplifying its conclusions, and telling us more about what had been decided. We had every reason to believe that we would receive such evidence, because in his letter to the Chairman of 6 June 2006 the Home Secretary wrote: “I would be happy to brief your committee after the next G6 meeting, which I will be chairing and is provisionally booked for 26–27 October”. In her oral evidence to us Ms Ryan said: “Can I just reiterate that the Home Secretary sends his apologies and is very keen to meet with the Committee when he has

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<sup>5</sup> HL Deb 26 October 2006 cols 1285–1286.

<sup>6</sup> <http://press.homeoffice.gov.uk/press-releases/g6-meeting-conclusions?version=1>

<sup>7</sup> Heiligendamm report, paragraph 13.

participated in a G6 meeting” (Q 80). And yet again, in the Government response, Ms Ryan confirmed: “The Home Secretary has already said that he is prepared to give evidence to your committee following the UK-hosted G6 in October.”

11. On 30 October the Chairman wrote to the Home Secretary to take him up on his offer. Numerous attempts were made in the course of November and the first half of December to find a mutually convenient date, but to no avail. Finally the Home Secretary replied on 20 December 2006. He apologised for the delay in replying, and stated:

“I know that the Committee has asked that I appear in person to give oral evidence. However while I am not opposed to doing so in principle my diary commitments are already onerous. Given that the Conclusions from Stratford are comprehensive and freely available and that Ministers have already appeared before the Committee, I hope that you might be satisfied with the additional written evidence provided in this letter and the offer to answer in writing any further substantive questions you might have.”

This correspondence is set out in Appendix 4.

12. We do not understand the reference to Ministers already having appeared before the Committee. Ms Ryan, and Baroness Ashton of Upholland who also gave oral evidence to us in June, were talking to us about the Heiligendamm meeting, and it was of course evidence about the Stratford-upon-Avon meeting that we wished to hear. We have considered whether we should continue to press the Home Secretary to give us oral evidence, but we have decided that oral evidence more than two months after the meeting—perhaps much more—would be of little value. We accept that the Home Secretary is a busy man and that his commitments are onerous, but it was perhaps unwise of him to give, and through his ministers to repeat, an undertaking to give us oral evidence about the meeting if he was not going to be able to satisfy that undertaking within a reasonable time.

### **The position of the smaller Member States**

13. In the Government response Ms Ryan repeated a point she had made in oral evidence:

“The G6 is an informal grouping of countries and is in no way unique—Europe has many other such groups, the Visegrád group,<sup>8</sup> Benelux, the Baltic Sea taskforce and the Nordic Cooperation Group are all good examples. The G6 also has no formal decision making powers—conclusions are formed and agreement reached on action to be taken by all or some of the participants. However nothing agreed informally by the G6 is binding on other EU Member States.”

14. We regard this as a simplistic view. The other groups to which Ms Ryan refers have one thing in common: close geographical links. The G6 countries also have one thing in common: their size. With three quarters of the population of the EU, nothing they say or do, no conclusions they reach, however informally, can fail to have an influence, perhaps decisive, on the other Member States. Ms Ryan points out that many Justice and Home Affairs

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<sup>8</sup> Czech Republic, Hungary, Poland and Slovakia.

matters require unanimity, so that “other Member States would have ample opportunity to resist any attempt by the G6 to impose their ideas”. Formally this is of course true. Matters which require a qualified majority need at least 255 votes from 14 of the 27 Member States. The G6, which together have 170 votes in the Council, are therefore eight States and 85 votes short of achieving a qualified majority (although they have far more than the 91 votes needed for a blocking minority). But in practical EU politics it is naïve to suppose that prior agreement on an issue by the six largest Member States will fail to carry the day against all but the most concerted and determined opposition from a number of the smaller Member States.

15. The copy of the conclusions we were sent contains a footnote which does not appear in the text placed on the Home Office website, and which reads:

“Other EU Member States and the European Commission are fully informed about G6 discussions. If they result in EU level proposals these are negotiated by all Member States in the usual way”.

At Stratford-upon-Avon the G6 considered a Franco-German paper on closer cooperation in the immigration and asylum fields, and agreed “to explore them further with a view to a common approach from the G6 to the December JHA and European Councils”.<sup>9</sup> The Home Secretary told us that this approach took the form of “a G6 letter to the EU Commission and the Presidency”, and he sent us a copy of that letter.

16. The letter to the Presidency was from Dr Reid to Mr Kari Rajamäki, the Finnish Minister of the Interior. This is printed in Appendix 5. With that letter the Home Secretary enclosed a paper, also printed in Appendix 5, signed by all six G6 interior ministers and entitled “G6 Migration Paper addressed to the President of the JHA Council”. If this was intended to form “a common approach from the G6 to the December JHA and European Councils”, we doubt whether it succeeded in at least the first of these aims. The letter was sent on Thursday 30 November 2006. This was the date on which the Commission adopted two Communications on migration<sup>10</sup> which were discussed at the JHA Council on Monday 4 and Tuesday 5 December. At that Council meeting the G6 ministers had already reached the conclusions set out in their paper. The ministers of the other Member States, if they were aware of this paper at all, would not have had an opportunity to consider it in any detail.
17. The paper commits the G6 to action in three fields: illegal immigration, returns and external borders; relations with third countries and co-development; and cooperation on asylum. Most of the specific commitments would achieve little unless the other Member States were involved; many of them (e.g. increasing the powers of Frontex, cooperation between EU Consulates to combat visa fraud, concluding readmission agreements with third countries, using EU funding to manage migration, streamlining asylum procedures across the EU) would not be possible unless all the Member States agreed on them. One of them, the return and removal of illegal immigrants, is the subject of a draft Directive which the Government, rightly in our view, have decided that the United Kingdom should not opt into.<sup>11</sup>

<sup>9</sup> Conclusions of the Stratford-upon-Avon meeting, penultimate paragraph.

<sup>10</sup> Communication on “The global approach to migration one year on: A comprehensive European Migration Policy”, and Communication on reinforcing the management of the EU’s Southern Maritime Borders.

<sup>11</sup> See our report *Illegal Migrants: proposals for a common EU returns policy*, 32nd Report, Session 2005–06, HL Paper 166.



18. We do not suggest that groups (whether large or small) of Member States (whether small or large) do not have the right to meet and reach agreed positions before matters are discussed in formal EU fora. On the contrary, we emphasised in our earlier report that informal meetings of such groups can be valuable in promoting dialogue and facilitating decision-making.<sup>12</sup> The G6 ministers are entitled to discuss migration and to develop common positions. But if they wish to make proposals which involve other Member States, and more particularly proposals which involve EU legislation, the appropriate forum is the Council. We believe that for the ministers of the G6 to inform their colleagues from the other Member States of these proposals only two working days before the JHA Council was both inept and discourteous.
19. Germany was represented at Stratford-upon-Avon by its interior minister, Dr Wolfgang Schäuble. In a speech to journalists in Berlin on 11 January 2007 he accepted that the G6 causes a degree of mistrust with those 21 partners which do not take part in the meetings, but thought that if too many issues were tackled in formal Council meetings, not all Member States would be satisfied with the degree of efficiency of the decision-making process. As an example of the benefits of informal structures he highlighted the 2005 Prüm Convention on cross-border cooperation against crime, terrorism and illegal immigration. The seven States party to it<sup>13</sup> had simply thought that EU procedures would take too long, and clinched their own deal; but now that the treaty was there, the Germany Presidency would see if it could be put into an EU legal framework.
20. In their response to the Heiligendamm report, the Government suggested that “if the Prüm treaty reaches the EU it will be opened up to the same negotiations and processes as all other proposals and a single Member State can prevent it from being enacted.” However the German Presidency, and the other States already party to the Convention, have made clear that they have no intention of allowing amendments. At an informal meeting of interior ministers of all the Member States in Dresden on 15 January 2007 Dr Schäuble put forward an initiative to transpose the Prüm Treaty into the legal framework of the EU “by drafting EU legislation using the exact wording of the Prüm Treaty.”<sup>14</sup> On 19 January the Council Secretariat published a draft of a Council Decision whose substantive provisions replicate word for word all those of the Prüm Convention other than those on air marshals and illegal migration. This Decision was considered by the Article 36 Committee<sup>15</sup> at a meeting on 25–26 January.
21. It was precisely this feature of the Prüm Convention that we criticised in the Heiligendamm report<sup>16</sup>: the fact that, though negotiated between a small number of Member States, it was subsequently to be imposed on all of them. The Government are now “seriously considering signing up to the Prüm Convention”.<sup>17</sup> The Sub-Committee which carried out this inquiry will shortly be looking at the Convention more closely.

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<sup>12</sup> Heiligendamm report, paragraph 7.

<sup>13</sup> The five original Schengen States (Belgium, France, Germany, Netherlands and Luxembourg), together with Austria and Spain.

<sup>14</sup> These are the words of the German Presidency’s website.

<sup>15</sup> i.e. the Coordinating Committee of officials set up under Article 36 of the Amsterdam Treaty.

<sup>16</sup> Paragraph 16.

<sup>17</sup> Evidence of the Rt Hon Geoff Hoon MP to this Committee, 12 December 2006.

## Data protection

22. Chapter 3 of the Heiligendamm report was devoted to data protection, and in particular to the decision of the G6 ministers that “rapid implementation of the availability principle<sup>18</sup> must not depend on the adoption of a framework decision on data protection in the third pillar [DPFD]”. This in our view, and the view of the European Data Protection Supervisor who gave evidence to us, was contrary to the decision reached by all the Member states that the two Framework Decisions on the Principle of Availability and on Data Protection should be negotiated in tandem, and that the protection of the latter was an essential safeguard against abuses under the former.
23. According to Ms Ryan, all that the G6 ministers meant by this was that work on the principle of availability should not be delayed by negotiations on the DPFD; “nor by the same token would they want the DPFD to be delayed by work on the Principle of Availability.”
24. As we explained in our previous report, the Finnish Presidency was committed to taking forward the principle of availability, but paying particular attention to the data protection issues before the principle of availability could be applied. Ms Ryan, and Baroness Ashton of Upholland, the Minister responsible for data protection, both told us that the Government would support the Finnish Presidency in taking forward negotiations on the DPFD.<sup>19</sup>
25. Negotiations on the DPFD have indeed been actively pursued. However most of the changes agreed have been in the direction of diminishing safeguards for individuals. We would deplore a situation whereby the DPFD could only be agreed at the same time as (or before) agreement was reached on the Principle of Availability by lowering the safeguards available to individuals.
26. We have no information on the state of play of negotiations over the Framework Decision on the Principle of Availability, nor does this proposal appear in the German Presidency programme. It seems that they are seeking to implement the principle through the Prüm Convention. We await a reply to the Chairman’s letter to Ms Ryan of 22 November 2006.
27. The latest draft of the DPFD was published on 25 October 2006.<sup>20</sup> We are keeping this document under scrutiny. The Chairman wrote on 14 December 2006 to Baroness Ashton to say that the following provisions cause us particular concern:
  - the open-ended conditions which would permit the processing of data for purposes other than those for which the original processing took place, contrary to basic principles of purpose limitation;
  - the provision allowing as a general rule, though subject to conditions, the processing of special categories of data (race, ethnic origin etc), rather than prohibiting it with narrowly defined exceptions;

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<sup>18</sup> i.e. the principle that all information available to the law enforcement agencies of one Member State must automatically be made available to the agencies of every other Member State.

<sup>19</sup> Heiligendamm report, paragraphs 53–54.

<sup>20</sup> Proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, Council Document 13246/2/06 Rev 2.

- the lack of common standards and coordinated decisions on the adequacy of data protection provisions in third states, which would enable the authorities of those states to obtain information from the Member State with the lowest legal requirements for transfers;
- the right of information being dependent on a request by the data subject.

At the date of this report we await Baroness Ashton's reply.

28. The Home Secretary stated in his letter to the Chairman of 6 June 2006, and Ms Ryan repeated in the Government response of 18 October 2006, that "all Member States have domestic data protection regimes for law enforcement and judicial processing that comply, at a minimum, with the Council of Europe Convention on the processing of personal data." The latest draft of the DPFDD was published the following week. It seems to us that some of the provisions to which we have referred would, if agreed, lower the safeguards for the processing of personal data to such an extent that they might not comply with the minimum standards of the Council of Europe Convention.

### Conclusions and recommendations

29. We believe that there has been some improvement in the readiness of the Home Office to publicise the conclusions of G6 meetings, and we hope that they will do better in future. We look forward to seeing the conclusions of the next meeting to be held under Italian chairmanship. But we do not regard the publication of the conclusions of the meeting on a website, even if complete, as an adequate substitute for a written ministerial statement.
30. Where G6 ministers have agreed policies which they would like to see adopted, they should adhere to the rule which, according to the Conclusions, they already follow: they should inform other Member States and the Commission of their discussions fully and in good time for them to be carefully considered, before making formal proposals for negotiation by all Member States in the appropriate EU fora. We expect United Kingdom ministers to urge this on their G6 colleagues at future meetings.
31. We have expressed the hope that negotiations on the Data Protection Framework Decision will achieve an overarching third pillar instrument providing strong safeguards for the protection of personal data used for law enforcement purposes. We are concerned that recent negotiations have lessened that protection. We look forward to hearing from ministers what the Government propose to do to reverse this.
32. We make this Report to the House for information.

## **APPENDIX 1: SUB-COMMITTEE F (HOME AFFAIRS)**

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The members of the Sub-Committee which conducted this inquiry were:

Baroness Bonham-Carter of Yarnbury  
Earl of Caithness  
Baroness D'Souza  
Lord Foulkes of Cumnock  
Lord Harrison  
Baroness Henig  
Lord Jopling  
Earl of Listowel  
Lord Marlesford  
Lord Teverson  
Lord Wright of Richmond (Chairman)

The following former members of the Sub-Committee, who were members when the earlier report *Behind Closed Doors: the meeting of the G6 Interior Ministers at Heiligendamm* was agreed, also took part in the inquiry:

Lord Avebury  
Lord Corbett of Castle Vale  
Lord Dubs

### **Declarations of Interests:**

A full list of Members' interests can be found in the Register of Lords Interests:

<http://www.publications.parliament.uk/pa/ld/ldreg.htm>

Members declared no interests relevant to this inquiry.

## APPENDIX 2: GOVERNMENT RESPONSE TO THE HEILIGENDAMM REPORT

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### Letter from Joan Ryan MP, Parliamentary Under-Secretary of State for Nationality, Citizenship and Immigration to the Chairman, 18 October 2006

I am writing in response to your report, “Behind Closed Doors: the meeting of the G6 Interior Ministers at Heiligendamm”. I welcome the fact that you agree such meetings are valuable in promoting dialogue and facilitating decision making.

I can now confirm that the next meeting of the interior ministers of France, Germany, Italy, Poland, Spain and the UK will take place in Stratford-upon-Avon on the 25 and 26 October. The meeting will be hosted by the Home Secretary and me.

Exact details of the agenda for the meeting are still being finalised but we will be having informal discussions on matters relating to combating terrorism, organised crime and illegal immigration. Our intention is to have frank and open debate on these issues with a view to identifying and agreeing multi-lateral actions that will achieve practical and tangible results in these areas.

You have identified four main issues in your report: transparency and accountability; the position of the other nineteen Member States; police access to Eurodac and VIS; and data protection and the relationship between the Data Protection Framework Decision (DPFD) and the Principle of Availability. These issues include but go beyond matters that relate specifically to the Heiligendamm meeting so will respond in a similar manner.

On transparency and accountability, I made clear when I gave evidence to your committee on 28 June that it was not our intention to be secretive about G6 meetings and that conclusions from Heiligendamm and previous meetings were published by the host nation. The Home Office published a press release after the last meeting the UK hosted in Derbyshire<sup>21</sup> and when I gave evidence to your Committee I said I would publish the conclusions from our meeting in October. The Home Secretary has already said that he is prepared to give evidence to your committee following the UK-hosted G6 in October. We shall also publish the conclusions from all future G6 meetings.

In terms of media coverage, you highlighted in your report articles reporting on the G6 in the Financial Times and the Daily Telegraph on Friday 24 March, the day following the meeting. There was also a well attended press conference on the 23 March. There will be a press conference following the UK-hosted G6 meeting in October and UK and international media will be invited. I think this demonstrates that the G6 meetings are far from secret.

To clarify the position of the other 19 Member States, I would like to reiterate the point I made when I gave evidence to your committee. The G6 is an informal grouping of countries and is in no way unique—Europe has many other such groups, the Visegrád group, Benelux, the Baltic Sea taskforce and the Nordic Cooperation Group are all good examples. The G6 also has no formal decision making powers—conclusions are formed and agreement reached on action to be taken by all or some of the participants. However, nothing agreed informally by the G6 is binding on other EU Member States.

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<sup>21</sup> [http://press.homeoffice.gov.uk/press-releases/European Co-Operation To Secure ?version=1](http://press.homeoffice.gov.uk/press-releases/European_Co-Operation_To_Secure_?version=1)

The report states that collective G6 decisions on EU policy will inevitably have a major impact on the future direction of that policy, implying that the G6 is able to dictate the direction of the EU over the other nineteen Member States. It is not the intention of the G6 to dictate EU policy and it could not do so even if it wanted to. It is true that if all G6 countries shared a view on a particular course of EU action then their combined weight could be influential. But this would be the case whether or not these countries met informally outside EU structures and with much of Justice and Home Affairs falling under unanimity arrangements other Member States would have ample opportunity to resist any attempt by the G6 to impose their ideas. The G6 can help inform and stimulate discussion at and ideas at EU level and I believe it is in the UK's interests to do so but it cannot and should not replace the formal workings of the JHA Council.

You have highlighted the Prüm treaty as an example of a *fait accompli* that will be inflicted upon the EU. However, if the Prüm treaty reaches the EU it will be opened up to the same negotiations and processes as all other proposals and a single Member State can prevent it from being enacted.

The report raises the issue of police access to Eurodac. Information held on Eurodac is believed by law enforcement authorities across the EU, including the UK, to hold important information that would help combat organised crime. Lack of access is a serious gap in the identification of suspected perpetrators of a serious crime. In their Communication on Interoperability of Databases the Commission noted that existing data systems are not fully exploited. The Legal base for the Eurodac Regulation is first pillar, Title IV Article 63(1)a, and is a measure currently designed solely to support operations of the arrangements to determine the Member State responsible for examining an asylum claim lodged in one of the Member States. Until and unless there is a formal proposal for police access to Eurodac we cannot say what its legal base would be.

Access by law enforcement authorities also extends to the Visa Information System. It is seen as an important addition to the fight against terrorism and organised crime. This does not imply that they will be able to browse through personal information, but are able to use the VIS in relation to investigating terrorism and serious crime. The UK is supportive of this proposal, which is progressing within the EU, and we continue to press for UK access.

On the Principle of Availability your report states that G6 ministers have decided to press forward with the Commission's proposed measure and to disregard data protection issues. The evidence provided to your inquiry has demonstrated that this is not the view of the G6 ministers. It is true that the G6 ministers feel that work on the Principle of Availability should not be delayed by negotiations on the Data Protection Framework Decision (DPFD) but by the same token they would not want the DPFD to be delayed by work on the Principle of Availability. This is a view shared by many other Member States. The Home Office places great importance on data protection—existing data protection rules would continue to apply until the DPFD is in place. As the Home Secretary wrote in his letter of the 6 June, all Member States have domestic data protection regimes that comply, at a minimum, with the Council of Europe Convention on the processing of personal data. The UK and others have regimes in place that surpass this Convention. The aim of the G6 is to prevent the Principle of Availability being slowed down by the DPFD. Existing data protection regimes would apply to the Principle of Availability, and the DPFD would replace these regimes once negotiations on the DPFD are completed. The UK will continue its efforts to have the DPFD in place as soon as possible.

Thank you for your report, I hope that I have answered all your outstanding queries.

### **APPENDIX 3: CONCLUSIONS OF THE MEETING OF G6 MINISTERS AT STRATFORD-UPON-AVON, 25–26 OCTOBER 2006**

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The interior ministers of France, Germany, Italy, Poland, Spain and the United Kingdom met in Stratford-upon-Avon, United Kingdom, on 25 and 26 October 2006 to agree action on matters of mutual interest in the areas of migration, terrorism and organised crime.

This informal “G6” grouping met again to continue to share ideas and identify concrete actions to be taken forward by them to improve the safety of their citizens. The G6 is not an EU body but in addition to improving practical cooperation among its members it can also provide a useful impetus and forum for piloting ideas in the wider area of freedom, security and justice.<sup>22</sup>

Ministers welcomed the good progress made since their last meeting on 22–23 March in Heiligendamm, Germany and endorsed in particular:

- Work on developing a joint strategy to improve re-admissions, including pooling information, in particular influencing third countries to issue travel documents promptly;
- Ongoing work to exchange views on integration contracts or measures with immigrants and exchange of information on dialogue with Muslim communities, including around language training and providing social and cultural knowledge of the affiliating societies for recent immigrants;
- Plans to deepen co-operation on tackling the trafficking of human beings, which will be developed at operational level after the meeting in Stratford;
- Progress on improving operational cooperation and dialogue with African Countries, including plans to pool information on a central data base;
- Efforts to improve cooperation regarding monitoring and analysing the use of the internet by terrorist organisations, including a successful conference in Berlin in September;
- Continued exchange of information on terrorist suspects between the G6;
- The ongoing development of joint support teams in case of serious terrorist attack;
- A model to improve the cooperation between liaison officers in the Western Balkans, to be further developed after Stratford.

To develop some of these work streams further and in the face of new challenges Ministers discussed ways to improve cooperation in the areas of counter-terrorism, integration, organised crime and migration control.

#### **1 Fighting terrorism**

Ministers agreed that terrorism needs an individual and collective response as nations. It continues to pose a very significant and developing threat to the citizens of all countries. We share a common duty to tackle terrorism and unequivocally condemn those who are involved in terrorism. There can be no excuse or justification for terrorist murder.

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<sup>22</sup> [Footnote to the original which does not appear in the version on the Home Office website] Other EU Member States and the European Commission are fully informed about G6 discussions. If they result in EU level proposals these are negotiated by all Member States in the usual way.

Ministers therefore agreed to take the following specific actions to combat the threat:

- Work to pre-empt the next terrorist attacks by agreeing action to identify developing threats and recommending appropriate responses;
- Improving cooperation in monitoring and analysing internet use by terrorist organisations, including by supporting Germany's project "check the web", in order to make the internet a more hostile operating environment for terrorists;
- Share ongoing research into explosives, in particular on liquid explosives and giving support for more EU funding;
- Support work on traceability of explosives and an early warning system on diverted explosives;
- Encourage the EU to maintain the high level of protective security at European airports, to enhance research for new technical screening devices and to argue for these standards to be adopted globally.

Ministers noted the importance of addressing the needs of victims of terrorism and agreed to share experience on how best to support them.

They also agreed to continue the programme of mutual information visits to national counter-terrorism centres following the success of the first such visit to Germany in October 2006.

## **2 Promoting integration**

While recognising the different situations prevailing in each of their countries Ministers underlined their commitment to providing the necessary conditions for the successful integration of all communities in their societies. Recent events in G6 countries have demonstrated the need to challenge and undermine misleading and extremist ideas and ideals, in particular by developing in the context of engagement between civilisations, cultures and religions, a constructive dialogue of values with Muslim communities to dispel any notion that the fight against terrorism is a conflict with Islam.

Following the intensive exchange of information about integration programmes agreed at Heiligendamm Ministers agreed to:<sup>23</sup>

- Hold a conference to provide a forum to encourage dialogue and debate between public service agencies and Muslim Communities;
- Conduct regular exchanges of information between Member States on programmes for engagement with Muslim communities;
- Take appropriate measures, such as road shows and media campaigns in European cities to encourage Muslim youth support for democratic values and to propagate effective arguments against extremist justification for terrorism. These measures will target young audiences, including by testimonials of "secular Muslim" role models, to demonstrate possibilities for Muslim youth to succeed in modern European societies;
- Support the continued implementation of the EU's strategy on radicalisation and recruitment.

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<sup>23</sup> Up to this point Section 2 of the Conclusions, including the heading '2. Promoting Integration', does not appear in the version on the Home Office website: see paragraph 8 of the report. What follows of Section 2 therefore appears to be part of Section 1, and in that context is incomprehensible.



### 3 Fighting organised crime

Ministers stressed that combating organised crime remains a high priority. The smuggling of people, drugs, arms and other illicit goods by organised groups poses a significant threat and contributes to crime both inside the EU and within countries along trafficking routes. Ministers agreed that to prevent and reduce the harm caused by such activity there are real benefits in tackling organised crime outside the borders of the EU, including by further improving operational co-operation between liaison officers and by strengthening local law enforcement.

Ministers agreed to take the following action:

- Establish a joint operation to tackle the trafficking of human beings, beginning with an expert seminar in November in Poland;
- Develop and embed a model of co-operation between liaison officers in the Western Balkans, with G6 leads for each country in the region, to pool resources and share intelligence;
- Undertake joint operations to tackle drugs trafficking off the West coast of Africa, in addition to existing projects relating to North Africa, using where appropriate the Maritime Analysis and Operations Centre (Narcotics);
- Produce an action plan to address organised crime in eastern and south eastern Europe, including Russian organised crime, to complement existing EU work in this area.

Ministers underlined the need for effective EU level structures to underpin the efforts of Member States in combating organised crime. In particular they reaffirmed their commitment to the rapid conclusion of negotiations on the second generation Schengen Information System and the Visa Information System. They noted the considerable achievements of institutions such as Europol and Eurojust and underlined their support for both. But they also noted the need to continue to reform Europol to improve its capacity to deliver quality analysis of the organised crime threat and stressed the importance of better co-ordination between EU law enforcement bodies, including Frontex, in particular to address cross cutting issues such as illegal immigration.

Ministers also noted that Missing Trader Intra-Community (MTIC) VAT fraud costs Member States millions in lost revenue and helps to finance organised crime. They therefore agreed to find ways to improve practical co-operation with each other and with Finance colleagues to develop a law enforcement response to this issue.

### 4 Immigration

Ministers, recalling the principle of European solidarity in the common management of external borders, underlined their commitment to controlling migration and tackling illegal immigration, particularly at the external maritime and land borders of the EU, and called on Frontex to be given the necessary support to co-ordinate meaningful EU level action in this area. They agreed that the EU Global Approach to Migration should continue to form the basis of our international strategy and stressed the need to engage with third countries to build their capacity to manage migration and to foster dialogue. To this end they underlined the need to build on the outcomes of the Rabat conference and the importance of the forthcoming ministerial EU-Africa conference on co-

development in Libya, which will support the development of a coherent and balanced response to the challenges of managing migration flows between the two continents in a spirit of co-operation and shared responsibility.

Ministers highlighted the need to do more to tackle clandestine, illegal routes used by irregular migrants from Africa to the EU and the routes used by those travelling into the EU from beyond its eastern land borders. Ministers agreed the following specific actions to respond to the challenge of illegal immigration:

- Setting up a joint analysis unit to disrupt the activities of illegal immigration networks and people smugglers on routes from Africa (East, North and sub-Saharan) by systematically sharing intelligence on seaborne activity between Libya and EU countries;
- A proposal for a working group at Europol to collect and analyse all information concerning criminal networks linked to illegal immigration and trafficking in human beings from West and North Africa and European Neighbourhood Partnership countries with the purpose of dismantling these organised criminal groups;
- Leading EU efforts to broker regional agreements with third countries in Africa to tackle illegal immigration by sea;
- Providing the European Commission with expert support to achieve targeted and effective readmission agreements with third countries;
- Working with other EU members states on a GDISC (General Directors of Immigration Services) capacity building programme for the Ukraine to effectively respond to irregular transit migration.

Ministers underlined the importance of exploiting new technology to strengthen border surveillance and controls, including through the exchange of passenger information. They also welcomed the general framework set out in the Franco-German paper for closer co-operation in the immigration and asylum fields and agreed to explore them further with a view to a common approach from the G6 to the December JHA and European Councils.

## **5 International Policing**

Ministers agreed on the importance of concerted EU action to build up effective policing infrastructures in third countries particular in post-conflict situations. They agreed to consider ways to build on the existing EU action in this field, through better co-ordination and enhancement of the response. It was agreed that the incoming Italian Presidency would take this forward at the next G6 meeting.

## **APPENDIX 4: CORRESPONDENCE WITH THE HOME SECRETARY**

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### **Letter from the Chairman to the Rt Hon Dr John Reid MP, Secretary of State for the Home Department, 30 October 2006**

You may remember that on 10 May I invited you to nominate a minister to give evidence to Sub-Committee F of the Select Committee on the European Union, which was then starting an inquiry into the meeting of the G6 interior ministers at Heiligendamm on 22–23 March 2006. In your reply of 6 June you gave us details of the workings of G6 meetings in general, and you answered a number of specific questions. At that stage you thought it unnecessary for a minister to give oral evidence to the Sub-Committee, but following a further letter from me of 7 June, Joan Ryan MP and Peter Storr helpfully came to give oral evidence to the Committee on 28 June. (Our correspondence is set out in Appendix 4 of the Select Committee report on the Heiligendamm meeting, which was published on 19 July—40th report of the session 2005–06, HL Paper 221.)

You explained in your letter of 6 June that you did not think it right to give oral evidence at that time because the Heiligendamm meeting had been attended by your predecessor. But you very helpfully added: “I would be happy to brief your committee after the next G6 meeting, which I will be chairing and is provisionally booked for 26–27 October”. Joan Ryan has reiterated your offer to give evidence to the Committee in her letter to Lord Wright of 18 October, responding to our report.

The G6 meeting has now taken place at Stratford-upon-Avon, and we have seen the Conclusions. We would like to take you up on your offer. We would be very grateful to hear oral evidence from you about the matters discussed.

I have asked the Clerk to the Sub-Committee to be in touch with your private office to arrange a mutually convenient date for this.

I am sending copies of this letter to Baroness Ashton of Upholland at the DCA, and to the Parliamentary Clerks of both departments.

### **Letter from the Home Secretary to the Chairman, 20 December 2006**

I am writing in response to your letter of 30 October in which you invited me to provide oral evidence to your Committee on the matters discussed at the G6 meeting that I chaired in Stratford-upon-Avon. I should apologise for the delay in replying.

I hope that the appearance before your Committee by Ministers and officials from the HO and DCA in June gave you sufficient opportunity to question the Government about the Heiligendamm meeting and the G6 more generally.

In my letter to you dated 6 June I said I would be happy to brief the Committee after the Stratford meeting. Joan Ryan wrote to you on 8 November with a link to the Conclusions from the Stratford-upon-Avon meeting. These conclusions contain the substance of the issues that were discussed and agreed.

There were only two other real issues that were raised. The first was on the question of how international legal frameworks shape the possibilities of effective counter-terrorist action, where we agreed to share at expert level national experience and practice. The second was a Franco-German paper on migration, which was discussed in the meeting and subsequently at official level before forming the basis of a G6 letter to the EU Commission and Presidency. The letter

proposed some ideas and priorities for EU action in the area of migration management, border control, illegal immigration and asylum. It was sent in the spirit of stimulating EU level debate and action. I attach a copy for information.

I know that the Committee has asked that I appear in person to give oral evidence. However, while I am not opposed to doing so in principle my diary commitments are already onerous. Given that the Conclusions from Stratford are comprehensive and freely available and that Ministers have already appeared before the Committee, I hope that instead you might be satisfied with the additional written evidence provided in this letter and the offer to answer in writing any further substantive questions you might have. Of course, I will also ensure that you are provided with information about future G6 meetings.

## **APPENDIX 5: CORRESPONDENCE WITH THE EU PRESIDENCY**

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### **Letter from the Home Secretary to Mr Kari Rajamäki, Minister of the Interior of Finland, 30 November 2006**

The challenge of migration is at the top of the political agenda across Europe and a major political priority of the European Union. There is no indication that migratory pressure on Europe will relent. On the contrary, along the EU's borders in southern and south-western Europe (Canary Islands, Lampedusa, Malta) and in the eastern and south-eastern Europe, these migratory movements are likely to increase.

With greater movement of goods and people within Europe we must recognise that the acts of one Member State in the management of migration, visas and asylum can create conditions which have a direct impact on the others. We must therefore inform, coordinate and support each other in our efforts to manage migration at EU and national level. This should include a shared analysis of migratory movements and agreement on the priorities best coordinated at EU level.

We should, based on a genuine political consensus or European pact, further orient our policies at national and EU level. This pact for a common policy on managing migration must recognise that each Member State has a different geography and history of migration and as a consequence will have a different contribution or role to play. We must, therefore, press on with an ambitious programme of cooperation between Member States and between the EU and the key countries of origin and transit with a concerted focus on results.

Such a policy should be centred around the following points:

- a shared analysis of migratory movements and agreement on a shared set of priority actions;
- action against illegal immigration, returning effectively and systematically people with no right to stay in our countries except those in special humanitarian situations;
- reinforcing our borders through joint action, increased solidarity, and greater use of technology;
- establishing new, permanent, reinforced relations with major source and transit countries recognising and maximising the benefits that circular or temporary migration can bring in economic development;
- a continued effort to clamp down on asylum shopping within Europe to better provide protection to those in need.

With perspective of a genuine political consensus on the actions needed at national and EU level we have the pleasure of attaching a paper, coming out of our discussions in Stratford-upon-Avon on what we see as the main priorities for the future.

### **G6 Migration Paper addressed to the President of the JHA Council**

Globalisation has led to a growth in migration. This presents real challenges for Europe which receives millions of migrants. Therefore the EU must cooperate even more closely to reinforce its policy on migration with a stronger focus on effective and concrete result.

G6 Ministers recognise that Member States must act together to manage all aspects of migration. The acts of one Member State in the management of migration, visas and asylum can create conditions which have a significant impact on the others. Member States must therefore commit to inform, coordinate and support each other at EU and national level in order to manage the potential consequences of their acts.

They also recognise the need to manage migratory flows in line with capacities for admitting and integrating new migrants (employment, housing, etc.) and the need for flexibility among Member States in this regard. Member States retain competence and responsibility for management of labour migration but must recognise action at EU level is in the interests of all Member States.

We therefore propose that the EU Member States work closely together to manage migration, defining the fundamental principles, priorities and aims of a common policy at political level. This should include managing migration in line with our capacity for admitting and integrating migrants, to making family reunification conditional on sufficient financial resources, to returning illegal immigrants and to avoid brain drain from the poorest countries promote the benefits of migration to source countries.

### **Illegal immigration, returns and external borders**

European Member States must urgently join forces to defeat criminal organisations and human smugglers which disregard the law, deceive and risk the lives of large numbers of refugees and migrants. A strict policy of returning persons without the right to stay is a key element of a successful migration policy. Illegal migrants must return except for those in special humanitarian situations. We also rely on each other to manage entry into the EU and share a common responsibility concerning the control of migration in Europe. We therefore commit to:

- Take all the necessary actions in order to eliminate or significantly reduce the threat posed by organised immigration crime through joint action in particular on trafficking and smuggling in human beings;
- Providing FRONTEX with all the necessary capacity and resources to carry out effectively planned and coordinated operational activity. We will also ensure that its future functions are taken forward in a sustainable way. The reinforcement of FRONTEX should be a major priority of the European Union;
- Increase our capacities and resources to control the external borders crossing points, as well as to patrol and monitor the maritime and land borders;
- Providing effective and proportionate tools to combat successfully the problem of illegal working;
- Returning and removing illegal migrants and enhancing coordination of national action including through joint returns;
- Exchanging intelligence to disrupt organised crime in particular on seaborne and transit migration. We will support Europol in analysing information on immigration crime;
- Extending the use of biometric technology both at borders and in issuing visas to include joint collection and sharing of data;
- Improving close cooperation and a permanent exchange of information between European Union consulates, in order to combat visa fraud.

## Relations with third countries and co-development

Cooperation with countries outside the EU is essential. We need to work faster and harder to make the balanced Global Approach meaningful for third countries. Migration when well managed is of benefit to countries of origin, transit and destination. We should consider the full spectrum of the EU's activities with third countries and integrate migration issues within them. We should make clear we expect third countries to fulfil the commitments they have made to readmission and we can strengthen our relationship with them when they meet these commitments. We should also enhance our capacity building in third countries and assist with returns and reintegration where third countries welcome this. This should also emphasise the relationship between migration and development. To the extent that Member States establish numerical targets for legal migration (taking into account labour market conditions) they should seek to use these to enhance circular migration to strengthen the positive impact on development in the countries of origin. Complementary to the Community readmission agreements EU Member States could agree on bilateral partnerships with countries of origin based on a model treaty. Within the context of the Global Approach to Migration and a focus on major source and transit countries, we commit to:

- Concluding strong and practical Readmission Agreements and where applicable insist that countries of origin comply with their obligations to readmit migrants under article 13 of the Cotonou agreement;
- Promoting the use of the assisted voluntary returns and enhance exchange of existing best practice;
- Beginning to specify and assisting building capacity to manage migration using national and EU funding;
- Exploring how to enhance the positive effects that circular migration can play in development;
- Reducing the impact of brain drain from the poorest countries, especially for the most needed qualifications;
- Promoting use of resources to facilitate economic development and job creation in the countries of origin;
- Promoting better use of the potential of legal and circular migration—including the use of voluntary numerical targets reported to the Commission or targeted visas for education/training where available—to maximise the beneficial effects on the development of origin and host countries;
- securing the positive impact of such migration on development by helping returning migrants become integrated in the labour market of their country of origin;
- Strengthening integration policies developing a consensus on the common goals.

In particular we will drive forward work with Africa to follow up the EU-Pan Africa Ministerial conference in Tripoli and the Euro-Africa Conference in Rabat.

### Cooperation on asylum

The first phase of the common European Asylum System is now in place. We now are putting it into practice. However, it is clear that more can be done to tackle secondary movements within the EU. This should be through a more organised implementation of the practical cooperation agenda. We will therefore:

- Share information between asylum authorities on major source countries;
- Initiate action to streamline asylum procedures across the EU;
- Work to apply consistently the first phase instruments across the EU to reduce asylum shopping;
- Evaluate the first phase of asylum instruments as an indispensable element in developing a second phase;
- Move towards a common policy of Asylum designed to guarantee the international protection to refugees and to fight abuses and fraud.

John Reid

Giuliano Amato

Ludwig Dorn

Alfredo Pérez Rubalcaba

Nicolas Sarkozy

Wolfgang Schäuble



## APPENDIX 6: OTHER REPORTS

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### Recent Reports from the Select Committee

Annual Report 2006 (46th Report, Session 2005–06, HL Paper 261)

### Relevant Reports prepared by Sub-Committee F

#### *Session 2000–01*

A Community Immigration Policy (13th Report, HL Paper 64)

#### *Session 2001–02*

A Common Policy on Illegal Immigration (37th Report, HL Paper 187)

#### *Session 2004–05*

After Madrid: the EU's response to terrorism (5th Report, HL Paper 53)

The Hague Programme: a five year agenda for EU justice and home affairs (10th Report, HL Paper 84)

#### *Session 2005–06*

Economic Migration to the EU (14th Report, HL Paper 58)

Illegal Migrants: proposals for a common EU returns policy (32nd Report, HL Paper 166)

Behind Closed Doors: the meeting of the G6 Interior Ministers at Heiligendamm (40th Report of Session, HL Paper 221)