



**COUNCIL OF  
THE EUROPEAN UNION**

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**PRESIDENCY NOTE**

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to : European Council

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Subject : Co-operation with third countries of origin and transit to jointly combat illegal immigration

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Delegations will find attached draft Council conclusions - presented by the Presidency - on Co-operation with third countries of origin and transit to jointly combat illegal immigration.

Due to reservations by several delegations on articles 11 (and, linked to it, 10) and 13, no agreement has been reached on this text in the General Affairs Council on 17 June 2002.

**DRAFT COUNCIL CONCLUSIONS**

**CO-OPERATION WITH THIRD COUNTRIES OF ORIGIN AND TRANSIT TO JOINTLY  
COMBAT ILLEGAL IMMIGRATION**

THE COUNCIL OF THE EUROPEAN UNION:

Bearing in mind the undoubtedly beneficial effects of legal, orderly and commonly managed migration on our societies,

Recalling its determination to establish a common policy on Asylum and Migration,

Concerned about the increase in illegal migration,

1. RECALLING the Tampere European Council conclusions, reaffirms the need for an integrated, global and balanced approach in order to address the root causes of destabilising migratory flows and it further reaffirms that the overarching objective of Community development policy is to reduce and, eventually, to eradicate poverty. This must remain the European Union's constant long-term approach .
2. STRESSES in this context, following the Laeken European Council conclusions and further to the conclusions of the Council of Ministers of 15 April and 25 April 2002, the importance it attaches to ensuring the co-operation of the countries of origin and transit of migratory flows, in order to achieve results in the short and medium term, in accordance with international human rights principles and obligations, and in particular with the 1951 Geneva Convention relating to the status of Refugees, as supplemented by the 1967 New York Protocol.

3. CONFIRMS the commitment of the European Union to systematically address, in the framework of its political dialogue with countries of origin and transit, migration issues, including those arising from illegal immigration with a view to establishing a prevention policy. In the framework of this dialogue, the EU will promote a better knowledge and monitoring of migratory flows.
4. CONSIDERS, while basing itself on the notion of “differentiated approach” relating to migration and asylum issues as endorsed by the Nice European Council, that such co-operation would be greatly facilitated if, in the common management of migratory flows, third countries were to adopt, as a matter of urgency, in particular, the following non-exhaustive list of measures:
- Signing, ratification and implementation of the United Nations Convention against Transnational Organised Crime of December 2000(Palermo Convention), the Protocol to Prevent, Suppress and Punish Trafficking in Persons and the Protocol against the Smuggling of Migrants by Land, Sea and Air, and other relevant international instruments, in particular the 1951 Geneva Convention, as supplemented by the 1967 New York Protocol.
  - Strengthening control measures at their borders to prevent illegal entry, transit or stay in the countries of the European Union, complemented by police controls within their national territory aimed at disrupting and dismantling networks of smugglers or traffickers in human beings, in line with the relevant international instruments including those on Human Rights.
  - Making, in its domestic legislation, the smuggling and trafficking in human beings subject to criminal penalties, also involving confiscation of means of transportation used in such smuggling or trafficking.
  - Imposing criminal penalties for activities relating to the falsification and fraudulent use of travel documents.
  - Promoting or facilitating the running of awareness raising campaigns, aimed at drawing attention to the problems and risks connected with illegal migration.

The European Union will be willing to support the countries committed to work in partnership with the EU in the implementation of these measures. When appropriate, the support could be financial, for which the European Community should be given the appropriate resources to provide for it within the financial perspectives of the European Union.

5. **UNDERLINES** that such co-operation will also entail the obligation of third countries to readmit their own nationals who are illegally present in any Member State, as well as the acceptance to readmit nationals of other countries and stateless persons, under the same circumstances, whose transit through the partner country can be established. Such co-operation shall include the delivery, when necessary, of the appropriate travel documents.

The EU will take the necessary measures to make the provisions on readmission operational in all the main transit and origin countries. It will take immediate steps to conclude readmission agreements between the Community and these countries, containing strict obligations on the readmission of illegal immigrants. In this framework, an early ratification of the Cotonou Agreement is necessary for the countries concerned.

When appropriate, the European Union could provide assistance to countries of origin and transit to strengthen their ability to meet their readmission obligations towards the European Union and its Member States, within the financial perspectives of the European Union. The possible facilitation of voluntary returns could be looked into.

6. **RECOGNISING** the importance of co-operation on migration with third countries of origin and transit, the European Union will develop an all-encompassing approach, integrated into the wider co-operation established within the existing or future permanent structures set up by EU Agreements with partner countries. The Council may, if existing European Community mechanisms, used to the maximum possible extent, do not provide the expected results, on a case by case basis, invite a particular country or countries to co-operate in order to achieve short and medium term results.

When doing so, the Council will take into account the nature and size of migratory flows originating from or transiting through a certain country as well as the country's attitude towards the negotiation of a European Community Readmission Agreement for which the Commission has received a negotiating mandate or, after it has come into force, its commitment to implement it, or the commitment to implement obligations in this regard contained in bilateral or multilateral Agreements with the European Union/European Community or in other relevant international instruments, including Member States' bilateral Readmission Agreements or arrangements with third countries.

7. CALLS upon the country that has been invited to co-operate to work unilaterally, and with the European Union, in order to tackle illegal immigration including, when appropriate, a joint integrated border management programme, comprehensive of control measures. Monitoring and follow-up of any joint programme is essential to ensure that the agreed objectives are met within the foreseen timeframe. If, after the programme has been implemented, migratory flows of own nationals from or third nationals through the partner country do not diminish, the European Union may, after an in-depth analysis of the situation and proposals for a possible adaptation of the programme by the Commission, propose to the third country the adoption of further migration management and control measures.
8. MAY CONSIDER that the level of the co-operation provided is not meeting expectations .It may then envisage the possibility of a rapid response, in the form of demarches, to request the urgent adoption and implementation of specific migration management and control measures. The Council may at any time resort to the rapid response if circumstances so require.
9. NOTES that in case of refusal to implement the obligations regarding asylum and migration contained in European Union/European Community Agreements with third countries, the use of the relevant mechanisms envisaged in those Agreements for dialogue or dispute settlement will be considered
10. MAY DECIDE, if the country refuses to co-operate, within the scope of the Treaties and respecting the European Unions' international commitments to adopt appropriate measures, including common positions, in the framework of the Common Foreign and Security Policy.

11. MAY INVITE, while not undermining the principal objectives of the Community's development policy, in particular the need to better focus aid on the reduction of poverty, the Commission to review, within the framework of its competences and respecting the commitments already undertaken, the allocations to the non co-operative country.
12. NOTES that the measures, which shall be decided in accordance with the principle of proportionality, will be reviewed as soon as the co-operation requested starts or is renewed..
13. STATES that in all new co-operation, association or equivalent agreement that the European Union or the European Community concludes with relevant countries of origin and transit, a clause regarding the co-operation in the common management of migratory flows, which takes into account short and medium term concerns, will be included. In case of refusal to implement the obligations contained in this clause, the relevant mechanisms envisaged in those agreements for dialogue or dispute settlement will be applied, including possible suspension of the agreement.

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