



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 9 April 2003 (15.04)
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Delegations will find attached the declassified version of the above document.

The text of this document is identical to that of the previous version.

¹ Document declassified by the European Commission on 3 April 2003.

RESTREINT UE



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 26 March 2003 (27.03)
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RESTREINT UE

**MIGR 23
ASIE 9**

COVER NOTE

from : Secretary-General of the European Commission
signed by Mr Sylvain BISARRE, Director

date of receipt : 24 March 2003

to : Mr Javier SOLANA, Secretary-General/High Representative

Subject: Proposal for a Council Decision concerning the signing of the Agreement
between the European Community and the Democratic Socialist Republic of
Sri Lanka on the readmission of persons residing without authorisation

Delegations will find attached Commission document SEC(2003) 255 final.

Encl.: SEC(2003) 255 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.3.2003
SEC(2003) 255 final

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RESTREINT UE

Proposal for a

COUNCIL DECISION

concerning the signing of the Agreement between the European Community and the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Agreement between the European Community and the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. POLITICAL AND LEGAL FRAMEWORK

The Justice and Home Affairs (JHA) Council authorised the Commission to negotiate a readmission agreement between the European Community and the Democratic Socialist Republic of Sri Lanka, by its decision of 8 September 2000. In January 2001, the Commission transmitted a draft Readmission Agreement text to the Sri Lanka authorities. Following written replies from Sri Lanka, one round of formal negotiations took place in Brussels in July 2001 followed by one round of formal negotiations in Colombo, Sri Lanka in March 2002. The Agreement was initialled in Brussels on 30 May 2002.

Member States have regularly been informed and consulted at all (informal and formal) stages of the negotiations.

On the part of the Community, the legal base for the Agreement is Article 63 para. 3 lit. b), in conjunction with Article 300 TEC. The attached proposals constitute the legal instrument for the signature and conclusion of the Agreement. The Council will decide by unanimity (Art. 300 para. 2 subpara. 1 in conjunction with Art. 67 TEC). The European Parliament will have to be formally consulted on the conclusion of the Agreement, in accordance with Art. 300 para. 3 TEC.

The proposed decision concerning the conclusion sets out the necessary internal arrangements for the practical application of the Agreement. In particular, it specifies that the Commission, assisted by experts from Member States, represents the Community within the Joint Committee set up by Article 17 of the Agreement. Further, the Agreement establishes a readmission committee which has powers to take decisions having legal effect on certain technical matters. Given the technical character of these decisions, it appears appropriate to provide for a simplified procedure for the establishment of the Community positions in such cases. These procedures are identical with the ones that have been adopted by the Council in the decision concerning the conclusion of the readmission agreement with Hong Kong. In this respect the decision provides that, as regards the adoption of the rules of procedure of the Joint Committee, this will be done by the Commission in consultation with a special committee designated by the Council. As regards other decisions to be taken by the Joint Committee, it is proposed that the Community position will be adopted by the Council, acting by qualified majority, on a proposal by the Commission.

2. OUTCOME OF THE NEGOTIATIONS

The Commission considers that the objectives set by the Council in its negotiating directives

were attained and that the draft Readmission Agreement is acceptable to the Community.

The final content of it can be summarised as follows:

- The Agreement is divided into 8 sections with 22 articles altogether. It also contains 7 annexes, which form an integral part of it, and five joint declarations.
- The readmission obligations set out in the Agreement (Articles 2 to 5) are drawn up in a fully reciprocal way and have to be read in conjunction with the definitions in Article 1. They comprise own nationals (Articles 2 and 4) as well as third-country nationals and stateless persons (Articles 3 and 5). All four articles contain a formulation clarifying that readmission shall take place without any formalities other than those specified in this Agreement;
- The obligation to readmit third-country nationals and stateless persons (Articles 3 and 5) is linked to the following prerequisites: (a) the person to be readmitted held, at the time of entry, a valid residence authorisation or a valid visa of the requested Party, or (b) the person to be readmitted entered unlawfully the territory of the requesting Party coming directly, i.e. without any in-between-stops, from the territory of the requested Party. Exempted from these obligations are persons in airside transit and all persons to whom the requesting Party issued a visa or residence authorisation with a longer period of validity.
- Sri Lanka did not accept the unilateral use, by EU Member States, of the EU's standard travel document for expulsion purposes but it agreed to introduce a common provisional travel document which, under certain circumstances, can be used for return purposes under this Agreement (Article 2 para. 2, Article 3 para. 3, Article 4 para. 2 and Article 5 para. 4);
- The Agreement contains a section on transit operations (Articles 12 and 13);
- Section III of the Agreement (Articles 6 to 11 in conjunction with annexes 1 to 7) contains the necessary technical provisions regarding the readmission procedure (readmission application, means of evidence, time limits, transfer modalities and modes of transportation). Some procedural flexibility is provided by the fact that in cases where the person to be readmitted is in possession of valid travel documents and willing to return voluntarily, only a written communication - but no formal submission of a readmission application - will be needed (Article 6);
- Articles 14 to 16 contain the necessary rules on costs, data protection and the non-affected of other International rights and obligations applicable to the Parties;
- The Committee of experts will be composed, and have the tasks and powers, as set out in Article 17;
- In order to execute this Agreement in practice, Article 18 empowers Member States to conclude bilateral implementing Protocols with the Sri Lanka government. The relation

between such implementing Protocols and this Agreement is clarified by Article 19;

- The final provisions (Art. 20 to 22) contain the necessary rules on entry into force, duration, termination and the legal status of the annexes to the agreement;
- The specific situation of Denmark is reflected in the preamble, Article 1 lit. a), Article 20 and in a joint declaration attached to the Agreement. The close association of Norway and Iceland to the implementation, application and development of the Schengen Acquis is likewise reflected in a joint declaration to the Agreement.

3. CONCLUSIONS

In the light of the above-mentioned results, the Commission proposes that the Council

- decide that the Agreement be signed on behalf of the Community and authorise the President of the Council to appoint the person(s) duly empowered to sign on behalf of the Community;
- approve, after consultation of the European Parliament, the attached Agreement between the European Community and the Sri Lanka government on the readmission of persons residing without authorisation.

Proposal for a

COUNCIL DECISION

concerning the signing of the Agreement between the European Community and the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63, paragraph 3 lit. b), in conjunction with the second sentence of the first subparagraph of Article 300 (2) thereof,

Having regard to the proposal from the Commission¹,

WHEREAS:

- (1) By its decision of 8 September 2000, the Council authorised the Commission to negotiate an agreement between the European Community and the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation.
- (2) Negotiations for the Agreement took place in Brussels in July 2001 and in Colombo, Sri Lanka, in March 2002.
- (3) Subject to its possible conclusion at a later date, the Agreement initialled in Brussels on 30 May 2002 should be signed.

HAS DECIDED AS FOLLOWS:

¹ OJ C

Sole Article

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community, the Agreement between the European Community and the Government of the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Agreement between the European Community and the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63 (3) lit. b), in conjunction with the second sentence of the first subparagraph of Article 300 (2) and the first subparagraph of Article 300 (3) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²

WHEREAS:

- (1) The Commission has negotiated on behalf of the European Community an Agreement with the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation;
- (2) This Agreement has been signed, on behalf of the European Community, on subject to its possible conclusion at a later date, in accordance with Decision...../...../EC of the Council of [.....]
- (3) This Agreement should be approved.
- (4) The Agreement establishes a Joint Committee which may take decisions having legal effect on certain technical matters. It is therefore appropriate to provide for simplified procedures for the establishment of the Community position in such cases.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Government of the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation is hereby approved on behalf of the Community.

The text of the agreement is attached to this Decision.

¹ OJ C
²

Article 2

The President of the Council shall give the notification provided for in Article 21 paragraph 2 of the Agreement¹.

Article 3

The Commission, assisted by experts from Member States, shall represent the Community in the Committee of experts established by Article 17 of the Agreement.

Article 4

The position of the Community within the Committee of experts with regard to the adoption of its rules of procedure as required under Article 17 (5) of the Agreement shall be taken by the Commission after consultation with a special committee designated by the Council. For all other Committee of experts' decisions, the position of the Community shall be adopted by the Council, acting by qualified majority, on a proposal by the Commission.

Article 5

This Decision shall be published in the *Official Journal of the European Union*. The date of entry into force of the Readmission Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Done at Brussels,

For the Council
The President

¹ The date of entry into force of the Readmission Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT

between the Democratic Socialist Republic of Sri Lanka and the European Community on the readmission of persons residing without authorization

THE HIGH CONTRACTING PARTIES,

THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, hereinafter referred to as
“Sri Lanka”

and

THE EUROPEAN COMMUNITY, hereinafter referred to as “the Community”,
Determined to strengthen their co-operation in order to combat illegal immigration more
effectively,

Concerned at the significant increase in the activities of organized criminal groups in the
smuggling of migrants and other related criminal activities;

Desiring to establish, by means of this Agreement and on the basis of reciprocity, rapid and
effective procedures for the identification and safe and orderly return of persons who do not,
or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of Sri
Lanka or one of the Member States of the European Union, and to facilitate the transit of such
persons in a spirit of co-operation,

Emphasizing that this Agreement shall be without prejudice to the rights, obligations and
responsibilities of the Community, the Member States of the European Union and Sri Lanka
under International Law,

Considering that the provisions of this Agreement, that falls within the scope of Title IV of
the Treaty establishing the European Community, do not apply to the Kingdom of Denmark,
in accordance with the Protocol on the position of Denmark annexed to the Treaty on
European Union and the Treaty establishing the European Community,

HAVE AGREED AS FOLLOWS:

Article 1.
Definitions

For the purpose of this Agreement:

- (a) “*Member State*” shall mean any Member State of the European Union, with the exception of the Kingdom of Denmark.
- (b) “*National of a Member State*” shall mean any person who holds the nationality, as defined for Community purposes, of a Member State.
- (c) “*National of Sri Lanka*” shall mean any person who holds the citizenship of Sri Lanka.
- (d) “*Third-country national*” shall mean any person who holds a nationality or citizenship other than that of Sri Lanka or one of the Member States.
- (e) “*Stateless person*” shall mean any person who does not hold a nationality. This shall not include persons who have been deprived of, or who have renounced, their nationality since entering the territory of Sri Lanka or one of the Member States respectively unless such persons have at least been promised naturalization by that State.
- (f) “*Residence authorisation*” shall mean a permit of any type issued by Sri Lanka or one of the Member States entitling a person to reside on its territory. This shall not include temporary permissions to remain on its territory in connection with the processing of an asylum application or an application for a residence authorisation.
- (g) “*Visa*” shall mean an authorisation issued or a decision taken by Sri Lanka or one of the Member States which is required with a view to entry in, or transit through, its territory. This shall not include airport transit visa.

SECTION I. READMISSION OBLIGATIONS BY SRI LANKA

Article 2.
Readmission of own nationals

- (1) Sri Lanka shall readmit, upon application by a Member State and without further formalities other than those provided for in this agreement, all persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of the requesting Member State provided that it is proved, or may be validly established on the basis of prima facie evidence furnished, that they are nationals of Sri Lanka.
- (2) At the request of a Member State, Sri Lanka shall, as necessary and without delay, issue the person to be readmitted with the travel document required for his or her return that is of a period of validity of at least 6 months. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, Sri Lanka shall extend the validity of the travel document or, where necessary, issue a new travel document with the same period of validity expeditiously, which shall normally be

within 14 calendar days and not exceed 30 calendar days. If Sri Lanka has not acknowledged receipt of the request of a Member State within 30 calendar days, it shall be deemed to accept the use of the common provisional travel document for return purposes, which is attached as annex 7 to this Agreement.

Article 3.

Readmission of third-country nationals and stateless persons

(1) Sri Lanka shall readmit, upon application by a Member State and without further formalities other than those provided for in this Agreement, all third-country nationals or stateless persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of the requesting Member State provided that it is proved, or may be validly established on the basis of prima facie evidence furnished, that such persons

- a) at the time of entry held a valid visa or residence authorisation issued by Sri Lanka; or
- b) entered the territory of the Member States unlawfully coming directly from the territory of Sri Lanka. A person comes directly from Sri Lanka within the meaning of this subparagraph if he or she arrived on the territory of the Member States by air or ship without having entered another country in-between.

(2) The readmission obligation in paragraph 1 shall not apply if

- a) the third country national or stateless person has only been in airside transit via the Colombo International Airport; or
- b) the requesting Member State has issued to the third country national or stateless person a visa or residence authorisation before or after entering its territory unless that person is in possession of a visa or residence permit, issued by Sri Lanka, which has a longer period of validity.

(3) At the request of a Member State, Sri Lanka shall, as necessary and without delay, issue the person to be readmitted with the travel document required for his or her return that is of a period of validity of at least 6 months. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, Sri Lanka shall issue a new travel document with the same period of validity expeditiously, which shall normally be within 14 calendar days and not exceed 30 calendar days. If Sri Lanka has not acknowledged receipt of the request of a Member State within 30 calendar days, it shall be deemed to accept the use of the common provisional travel document for return purposes, which is attached as annex 7 to this Agreement.

SECTION II.

READMISSION OBLIGATIONS BY THE COMMUNITY

Article 4.
Readmission of own nationals

(1) A Member State shall readmit, upon application by Sri Lanka and without further formalities other than those provided for in this agreement, all persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of Sri Lanka provided that it is proved, or may be validly established on the basis of prima facie evidence furnished, that they are nationals of that Member State.

(2) At the request of Sri Lanka, a Member State shall, as necessary and without delay, issue the person to be readmitted with the travel document required for his or her return that is of a period of validity of at least 6 months. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the Member State concerned shall extend the validity of the travel document or, where necessary, issue a new travel document with the same period of validity expeditiously, which shall normally be within 14 calendar days and not exceed 30 calendar days. If the Member State concerned has not acknowledged receipt of the request of Sri Lanka within 30 calendar days, it shall be deemed to accept the use of the common provisional travel document for return purposes, which is attached as annex 7 to this Agreement.

Article 5.
Readmission of third-country nationals and stateless persons

(1) A Member State shall readmit, upon application by Sri Lanka and without further formalities other than those provided for in this Agreement, all third-country nationals or stateless persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of Sri Lanka provided that it is proved, or may be validly established on the basis of prima facie evidence furnished, that such persons

- a) at the time of entry held a valid visa or residence authorisation issued by the requested Member State; or
- b) entered the territory of Sri Lanka unlawfully coming directly from the territory of the requested Member State. A person comes directly from the territory of the requested Member State within the meaning of this subparagraph if he or she arrived in Sri Lanka by air or ship without having entered another country in-between.

(2) The readmission obligation in paragraph 1 shall not apply if

- a) the third country national or stateless person has only been in airside transit via an International Airport of the requested Member State; or
- b) Sri Lanka has issued to the third country national or stateless person a visa or residence authorisation before or after entering its territory unless that person is in possession of a visa or residence permit, issued by the requested Member State, which has a longer period of validity.

(3) If two or more Member States issued a visa or residence authorisation, the readmission obligation in paragraph 1 is for the Member State that issued the document with a longer period of validity or, if one or several of them have already expired, the document that is still valid. If all of the documents have already expired, the readmission obligation in paragraph 1 is for the Member State that issued the document with the most recent expiry date.

(4) At the request of Sri Lanka, a Member State shall, as necessary and without delay, issue the person to be readmitted with the travel document required for his or her return that is of a period of validity of at least six months. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the Member State concerned shall issue a new travel document with the same period of validity expeditiously, which shall normally be within 14 calendar days and not exceed 30 calendar days. If the Member State concerned has not acknowledged receipt of the request of Sri Lanka within 30 calendar days, it shall be deemed to accept the use of the common provisional travel document for return purposes, which is attached as annex 7 to this Agreement.

SECTION III. READMISSION PROCEDURE

Article 6.

Principle

(1) Subject to paragraph 2, any transfer of a person to be readmitted on the basis of one of the obligations contained in Articles 2 to 5 shall require the submission of a readmission application to the competent authority of the requested State.

(2) The readmission application may be replaced by a written communication to the requested Contracting Party within a reasonable time period prior to the return of the person concerned provided that

- (a) the person to be readmitted is in possession of a valid travel document and, where applicable, a valid visa or residence authorisation of the requested State; and
- (b) the person to be readmitted is willing to return to the requested State.

Article 7.

Readmission application

(1) To the extent possible, the readmission application is to contain the following information:

- a) the particulars of the person to be readmitted (e.g. given name, surname, maiden name, earlier names, nicknames or pseudonyms, date and place of birth, sex, physical description, father's and mother's name, current and any previous nationality, language, civil status, names of spouse, children (if any) or other next of kin, last

place of residence, passport or identity card number, driving licence, schools attended);

b) indication of the means with which proof or prima facie evidence of nationality, transit and unlawful entry and residence will be provided.

(2) To the extent possible, the readmission application should also contain the following information:

a) a statement indicating that the person to be transferred may need help or care, provided the person concerned has explicitly consented to the statement;

b) any other protection or security measure which may be necessary in the individual transfer case.

(3) A common form to be used for readmission applications is attached as annex 5 to this Agreement.

Article 8.

Means of evidence regarding nationality

(1) Proof of nationality pursuant to the paragraphs 1 of Articles 2 and 4 can be particularly furnished through the documents listed in annex 1 to this Agreement, even if their period of validity has expired. If such documents are presented, the Member States and Sri Lanka shall mutually recognise the nationality without further investigation being required. Proof of nationality cannot be furnished through false documents.

(2) Prima facie evidence of nationality pursuant to the paragraphs 1 of Articles 2 and 4 can be particularly furnished through the documents listed in annex 2 to this Agreement, even if their period of validity has expired. Prima facie evidence of nationality cannot be furnished through false documents.

(3) Save in the case of availability of authentic documents as listed in annex 1, the competent diplomatic representation of Sri Lanka or the Member State concerned may, whenever necessary and upon request, make arrangements to interview the person to be readmitted without undue delay in order to establish his or her nationality.

Article 9.

Means of evidence regarding third-country nationals and stateless persons

(1) Proof of the conditions for the readmission of third-country nationals and stateless persons laid down in the paragraphs 1 of Articles 3 and 5 shall be particularly furnished through the means of evidence listed in annex 3 to this Agreement; it cannot be furnished through false documents. Any such proof shall be mutually recognised by the Contracting Parties without any further investigation being required.

(2) Prima facie evidence of the conditions for the readmission of third-country nationals

and stateless persons laid down in the paragraphs 1 of Article 3 and Article 5 shall be particularly furnished through the means of evidence listed in annex 4 to this Agreement; it cannot be furnished through false documents. Where such prima facie evidence is presented, the Member States and Sri Lanka shall deem the conditions to be established, unless they can prove otherwise. In doubtful cases the Contracting Parties will consult with a view to interviewing, without undue delay, the person to be readmitted.

(3) The unlawfulness of entry, presence or residence shall be established by means of the travel documents of the person concerned in which the necessary visa or other residence authorisation for the territory of the requesting State are missing. A statement by the requesting state that the person concerned has been found not having the necessary travel documents, visa or residence authorisation shall likewise provide prima facie evidence of the unlawful entry, presence or residence.

Article 10.
Time limits

(1) The application for readmission must be submitted to the competent authority of the requested State within a maximum of one year after the requesting State's competent authority has gained knowledge that a third-country national or a stateless person does not, or does no longer, fulfill the conditions in force for entry, presence or residence. Where there are legal or factual obstacles to the application being submitted in time, the time limit shall, upon request, be extended but only until the obstacles have ceased to exist.

(2) A readmission application must be replied to without undue delay, and normally within a period of 15 calendar days and not exceed 30 calendar days; reasons shall be given for refusal of a readmission request. This time limit begins to run with the date of receipt of the readmission request. If there was no acknowledgement of receipt within this time limit the transfer shall be deemed to have been agreed to.

(3) After agreement has been given or, where appropriate, if no acknowledgement was given within the 30 - calendar day time limit, the person concerned shall be transferred without undue delay and, at the most, within three months. Upon application, this time limit may be extended by the time taken to deal with legal or practical obstacles.

Article 11.
Transfer modalities and modes of transportation

(1) Before returning a person, the competent authorities of Sri Lanka and the Member State concerned shall make arrangements in writing and in advance regarding the transfer date, the point of entry, possible escorts and other information relevant to the transfer.

(2) No means of transportation, whether by air, land or sea, shall be prohibited. Return by air shall not be restricted to the use of the national carriers of the Contracting Parties and may take place by using scheduled flights as well as charter flights. In the event of escorted returns, such escorts shall not be restricted to authorised persons of the requesting State, provided that they are authorised persons from Sri Lanka or any Member State. Sri Lanka and the Member State concerned shall carry out prior mutual consultations on the modalities of charter flights.

SECTION IV. TRANSIT OPERATIONS

Article 12. Principles

(1) The Member States and Sri Lanka should restrict the transit of third-country nationals or stateless persons to cases where such persons cannot be returned to the State of destination directly.

(2) Sri Lanka shall allow the transit of third-country nationals or stateless persons if a Member State so requests, and a Member State shall authorise the transit of third-country nationals or stateless persons if Sri Lanka so requests, if the onward journey in possible other States of transit and the readmission by the State of destination is assured.

(3) Transit can be refused by Sri Lanka or a Member State

- a) if the third-country national or the stateless person runs the risk of persecution, or could be subject to criminal prosecution or sanctions in another State of transit or in the State of destination, or could be threatened by criminal prosecution on the territory of the requested State; or
- b) on grounds of public health, domestic security, public order or other national interests of the requested State.

(4) Sri Lanka or a Member State may revoke any authorisation issued if circumstances referred to in paragraph 3 subsequently arise or come to light which stand in the way of the transit operation, or if the onward journey in possible States of transit or the readmission by the State of destination is no longer assured.

Article 13. Transit procedure

(1) An application for transit operations must be submitted to the competent authorities in writing and is to contain the following information:

- a) type of transit (by air, land or sea), possible other States of transit and intended final destination;

- b) the particulars of the person concerned (e.g. given name, surname, maiden name, nick names or pseudonyms, date of birth, sex and – where possible – place of birth, nationality, language, type and number of travel document);
- c) envisaged point of entry, time of transfer and possible use of escorts;
- d) a declaration that from the viewpoint of the requesting State the conditions pursuant to Article 12 paragraph 2 are met, and that no reasons for a refusal pursuant to Article 12 paragraph 3 are known of.

A common form to be used for transit applications is attached as annex 6 to this Agreement.

(2) The requested State shall, without undue delay and in writing, inform the requesting State of the admission, confirming the point of entry and the envisaged time of admission, or inform it of the admission refusal and of the reasons for such refusal.

(3) If the transit operation is effected by air, the person to be readmitted and possible escorts shall be exempted from having to obtain an airport transit visa.

(4) The competent authorities of the requested State shall, subject to mutual consultations, support the transit operations, in particular through the surveillance of the persons in question and the provision of suitable amenities for that purpose.

SECTION V. COSTS

Article 14.

Transport and transit costs

Without prejudice to the right of the competent authorities to recover the costs associated with the readmission from the person to be readmitted or third parties, all transport costs incurred in connection with readmission and transit operations pursuant to this Agreement as far as the border of the State of final destination shall be borne by the requesting State.

SECTION VI. DATA PROTECTION AND NON-AFFECTION CLAUSE

Article 15. Data Protection

The communication of personal data shall only take place if such communication is necessary for the implementation of this Agreement by the competent authorities of Sri Lanka or a Member State as the case may be. The processing and treatment of personal data in a particular case shall be subject to the domestic laws of Sri Lanka and, where the controller is a competent authority of a Member State, to the provisions of Directive 95/46/EC and of the national legislation of that Member State adopted pursuant to this Directive. Additionally the following principles shall apply:

- a) personal data must be processed fairly and lawfully;
- b) personal data must be collected for the specified, explicit and legitimate purpose of implementing this Agreement and not further processed by the communicating or by the recipient in a way incompatible with that purpose.
- c) personal data must be adequate, relevant and not excessive in relation to the purpose for which they are collected and/or further processed; in particular, personal data communicated may concern only the following:
 - the particulars of the person to be transferred (e.g. given names, surnames, any previous names, nicknames or pseudonyms, sex, father's and mother's name, date and place of birth, current and any previous nationality, last place of residence, schools attended, civil status, names of spouse and children, if any, and names of other next of kin);
 - passport, identity card or driving licence (number, period of validity, date of issue, issuing authority, place of issue);
 - stopping places and itineraries;
 - other information needed to identify the person to be transferred or to examine the readmission requirements pursuant to this Agreement.
- d) personal data must be accurate and, where necessary, kept up to date.
- e) personal data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the data were collected or for which they are further processed.
- f) Both the communicating authority and the recipient shall take every reasonable step to ensure as appropriate the rectification, erasure or blocking of personal data where the processing does not comply with the provisions of this article, in particular because that data are not adequate, relevant, accurate, or they are excessive in relation to the purpose of processing. This includes the notification of any rectification, erasure or blocking to the other Party.

- g) Upon request, the recipient shall inform the communicating authority of the use of the communicated data and of the results obtained therefrom.
- h) Personal data may only be communicated to the competent authorities. Further communication to other bodies requires the prior consent of the communicating authority.
- i) The communicating and the receiving authorities are under the obligation to make a written record of the communication and receipt of personal data.

Article 16.

Non-affected clause

- (1) This agreement shall be without prejudice to the rights, obligations and responsibilities of the Community, the Member States and Sri Lanka arising from International Law and, in particular, from any applicable International Convention or agreement to which they are Parties.
- (2) Nothing in this Agreement shall prevent the return of a person under other formal or informal arrangements.

SECTION VII. IMPLEMENTATION AND APPLICATION

Article 17.

Joint Readmission committee

- (1) The Contracting Parties shall provide each other with mutual assistance in the application and interpretation of this Agreement. To this end, they shall set up a joint readmission committee (hereinafter referred to as “the joint committee”) which will, in particular, have the task
 - a) to monitor the application of this Agreement;
 - b) to decide on implementing arrangements necessary for the uniform execution of it;
 - c) to have a regular exchange of information on the implementing Protocols drawn up by individual Member States and Sri Lanka pursuant to Article 18;
 - d) to decide on specific implementing arrangements aiming at an orderly management of return flows;
 - e) to decide on amendments to the annexes to this Agreement;
 - f) to recommend amendments to this Agreement.
- (2) The decisions of the joint committee shall be binding on the Parties.
- (3) The joint committee shall be composed by representatives of the Community and Sri Lanka; the Community shall be represented by the European Commission, assisted by experts from Member States.

- (4) The joint committee shall meet where necessary at the request of one of the Contracting Parties.
- (5) The joint committee shall establish its rules of procedures.

*Article 18.
Implementing Protocols*

- (1) Sri Lanka and a Member State may draw up implementing Protocols which shall cover rules on
- a) the designation of the competent authorities, the border crossing points and the exchange of contact points;
 - b) the conditions for escorted returns, including the transit of third-country nationals and stateless persons under escort;
 - c) means and documents additional to those listed in the annexes 1 to 4 to this agreement.
- (2) The implementing Protocols referred to in paragraph 1 will enter into force only after the joint readmission committee (Article 17) has been notified.
- (3) Sri Lanka agrees to apply any provision of an implementing Protocol drawn up with one Member State also in its relations with any other Member State upon request of the latter.

*Article 19.
Relation to bilateral readmission agreements
or arrangements of Member States*

The provisions of this Agreement shall take precedence over the provisions of any bilateral agreement or arrangement on the readmission of persons residing without authorisation which have been or may, under Article 18, be concluded between individual Member States and Sri Lanka, in so far as the provisions of the latter are incompatible with those of this Agreement.

SECTION VIII. FINAL PROVISIONS

*Article 20.
Territorial application*

- (1) Subject to paragraph 2, this Agreement shall apply to the territory in which the Treaty establishing the European Community is applicable and to the territory of Sri Lanka.
- (2) This Agreement shall not apply to the territory of the Kingdom of Denmark.

*Article 21.
Entry into force, duration and termination*

- (1) This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective procedures.

(2) This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other that the procedures referred to in the first paragraph have been completed.

(3) This Agreement is concluded for an unlimited period.

(4) Each Contracting Party may denounce this Agreement by officially notifying the other Contracting Party. This Agreement shall cease to apply six months after the date of such notification.

Article 22.

Annexes

Annexes 1 to 7 shall form an integral part of this Agreement.

Done at on the day of in the year in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish, Sinhala and Tamil languages, each of these texts being equally authentic.

For the European Community

(...)

For the Democratic Socialist Republic of

Sri Lanka

(...)

ANNEX 1

COMMON LIST OF DOCUMENTS

THE PRESENTATION OF WHICH IS CONSIDERED AS PROOF OF NATIONALITY

(ARTICLES 2 PARA. 1; 3 PARA. 1; 4 PARA. 1 AND 5 PARA. 1)

- valid or expired passports of any kind, issued by official authorities of the Member States or Sri Lanka (national passports, diplomatic passports, service passports and, where applicable, collective passports and surrogate passports including children's passports);
- valid identity cards of any kind, issued by official authorities of the Member States or Sri Lanka (including temporary and provisional ones);
- citizenship certificates or other official documents that mention or indicate citizenship;
- service books and military identity cards;
- seaman's registration books and skippers' service cards.

ANNEX 2

COMMON LIST OF DOCUMENTS

THE PRESENTATION OF WHICH IS CONSIDERED AS

PRIMA FACIE EVIDENCE OF NATIONALITY

(ARTICLES 2 PARA. 1; 3 PARA. 1; 4 PARA. 1 AND 5 PARA. 1)

- photocopies^{*} of any of the documents listed in annex 1 to this Agreement;
- photocopies* of citizenship certificates and other official documents that mention or indicate citizenship;
- driving licenses or photocopies* thereof;
- birth certificates or photocopies* thereof;
- any other official document issued by the authorities of the requested State;
- company identity cards or photocopies* thereof;
- statements by witnesses;
- statements made by the person concerned and language spoken by him or her.

* For the purpose of this annex, the term "photocopies" means photocopies officially made by authorities of Sri Lanka or the Member States.

ANNEX 3

COMMON LIST OF DOCUMENTS

WHICH ARE CONSIDERED AS PROOF OF THE CONDITIONS FOR THE READMISSION OF THIRD COUNTRY NATIONALS AND STATELESS PERSONS

(ARTICLE 3 PARA. 1; ARTICLE 5 PARA. 1)

- entry/departure stamps or similar endorsement in the travel document of the person concerned or other evidence of entry/departure (e.g. photographic);
- documents of an official nature, such as hospital in-patients' and out-patients' tickets, which clearly show that the person concerned stayed on the territory of the requested State;
- tickets and/or passenger lists of air or boat passages which show the presence of the person concerned on the territory of the requested State;
- information showing that the person concerned has used the services of a courier or travel agency;
- official statements made, in particular, by border authority staff and other witnesses who can testify to the person concerned crossing the border;
- official statement by the person concerned in judicial or administrative proceedings.

ANNEX 4

COMMON LIST OF DOCUMENTS

**WHICH ARE CONSIDERED AS PRIMA FACIE EVIDENCE OF THE CONDITIONS
FOR THE READMISSION OF THIRD COUNTRY NATIONALS AND STATELESS PERSONS
(ARTICLE 3 PARA. 1; ARTICLE 5 PARA. 1)**

- description of place and circumstances under which the person concerned has been intercepted after entering the territory of the requesting State, issued by the relevant authorities of that State;
- information related to the identity and/or stay of a person which has been provided by an International organization;
- reports/confirmation of information by family members;
- documents of an unofficial nature, such as hotel bills, car rental agreements or credit card receipts, which clearly specify the name and passport number or other identifying feature of the person concerned.

ANNEX 5

[Emblem of Sri Lanka]



.....

.....

(Place and date)

(Designation of requesting authority)

Reference:

To

.....

.....

.....

(Designation of receiving authority)

READMISSION APPLICATION

**pursuant to Article 7 of the Agreement of between
the European Community and the Democratic Socialist Republic of Sri Lanka
on the readmission of persons residing without authorisation**

A. PERSONAL DETAILS

1. Full name (underline surname):

.....

2. Maiden name:

.....

3. Date and place of birth:

.....

4. Sex and physical description (height, color of eyes, distinguishing marks etc.):

.....

5. Father's and mother's name :

.....

6. Also known as (earlier names, nicknames or pseudonyms):

.....

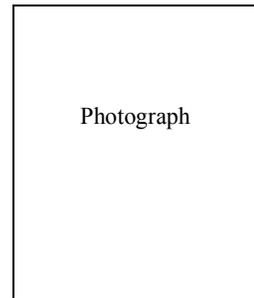
7. Nationality and language:

.....

8. Civil status: married single divorced widowed

If married : name of spouse.....

Names and age of children (if any)



.....
.....
.....

9. Names of brothers/sisters and other next of kin:

.....
.....
.....

10. Last address in the requesting State:
.....
11. Previous address in the requested State:
.....
12. Names (and periods) of schools attended in the requested State:
.....
13. Profession and names of former employers in the requested State (if any) :
.....
14. Names and addresses of doctors/dentists in the requested State:
.....
15. Date and means of leaving the requested State (by air – name of airline, ship etc.):
.....
16. Date and means of entry to the requesting State :
.....

B. SPECIAL CIRCUMSTANCES RELATING TO THE TRANSFEREE

1. State of health
(e.g. possible reference to special medical care; latin name of contagious disease):
.....
2. Indication of particularly dangerous person
(e.g. suspected of serious offence; aggressive behaviour):
.....

C. MEANS OF EVIDENCE ATTACHED

- | | | |
|----|--|--|
| 1. |
(Passport No.)
.....
(issuing authority) |
(date and place of issue)
.....
(expiry date) |
| 2. |
(Identity card No.)
.....
(issuing authority) |
(date and place of issue)
.....
(expiry date) |
| 3. |
(Driving licence No.)
.....
(issuing authority) |
(date and place of issue)
.....
(expiry date) |
| 4. |
(Other official document No.)
.....
(issuing authority) |
(date and place of issue)
.....
(expiry date) |

D. OBSERVATIONS

.....
.....
.....

.....
(Signature) (Seal/stamp)

.....
8. Type and number of travel document:
.....

B. TRANSIT OPERATION

1. Type of transit

- by air by sea by land

2. State of final destination

.....

3. Possible other States of transit

.....

4. Proposed border crossing point, date, time of transfer and possible escorts

.....

.....

.....

5. Admission guaranteed in any other transit State and in the State of final destination

(Article 12 paragraph 2)

- yes no

6. Knowledge of any reason for a refusal of transit

(Article 12 paragraph 3)

- yes no

C. OBSERVATIONS

.....

.....

.....

.....

.....

(Signature) (Seal/stamp)

ANNEX 7

[Emblem of Sri Lanka]



.....

..... (Place and date)

.....

(Designation of issuing authority)

Ref.:

COMMON PROVISIONAL TRAVEL DOCUMENT

pursuant to Articles 2 to 5 of the Agreement of between
the European Community and the Democratic Socialist Republic of Sri Lanka
on the readmission of persons residing without authorisation

Valid for a single return journey from (issuing State)
to..... (point of entry/country of destination)
via (transit countries)
by (mode of transportation)
leaving on (date of departure)

**This travel document expires on and must be produced to the Immigration
Officer on arrival in (point of
entry/country of destination).**

Name..... Forename..... Date of birth..... Place of birth..... Sex/ Height..... Distinguishing marks (if any).....	Holder's Photograph
Personal Identity card No. Nationality.....	Signature

Address in Sri Lanka (if known)

.....

.....

(Signature) (Seal/stamp)

Joint Declaration on Article 2 para. 1

“The Parties take note that, under Sri Lanka’s constitution and according to its current citizenship laws (Citizenship Act N° 18 of 1948), it is not possible for a Sri Lankan national to be deprived of his or her Sri Lankan nationality without acquiring the nationality of another State. Similarly, the renunciation of nationality by a Sri Lankan national acquires legal validity only if he or she has acquired the nationality of another State.

The Parties agree to consult each other in due time, should this legal situation change.”

Joint Declaration on Article 3 para. 1 lit. b) and Article 5 para. 1 lit. b)

“The Parties agree that mere airside transit stays in a third-country shall not be considered as « having entered another country in-between » in the meaning of those two provisions.”

Joint Declaration concerning Denmark

“The Contracting Parties take note that this Agreement does not apply to the territory of the Kingdom of Denmark. In such circumstances it is considered appropriate that Sri Lanka and Denmark should conclude a readmission agreement in the same terms as this Agreement.”

Joint Declaration concerning Iceland and Norway

“The Contracting Parties take note of the close relationship between the European Community and Iceland and Norway ,particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen acquis. In such circumstances it is considered appropriate that Sri Lanka and Iceland and Norway should conclude a readmission agreement in the same terms as this Agreement .“

Joint Declaration on the facilitation of law enforcement cooperation

“The delegations of the Community and Sri Lanka commit themselves to a joint effort to fight against illegal immigration. They agree that if the problem of illegal immigration originating from Sri Lanka is to be comprehensively dealt with, effective co-operative measures flowing from this situation would need to be instituted.

In addition, both Parties recognise the need to take measures against organised criminal activities, such as human trafficking, migrant smuggling and financing for terrorist purposes, which have become grounds for growing concern.

Accordingly, the European Community, in conformity with all relevant international instruments including the Palermo Protocols against the Trafficking of Human Beings and the Smuggling of Migrants, and acting within its sphere of competences, will encourage and facilitate the co-operation between law enforcement, immigration or other relevant authorities of Member States, as appropriate, with their counterparts of Sri Lanka, in accordance with their domestic law.”