



**COUNCIL OF
THE EUROPEAN UNION**

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"A" ITEM NOTE

from: General Secretariat
to: Council (General Affairs and External Relations)

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Subject : Draft Council conclusions on intensified cooperation on the management of migration flows with third countries

1. Following the conclusions of the European Council in Seville on 21-22 June 2002, on asylum and immigration, the Presidency has drawn up a "Road Map" with deadlines for immediate action to be taken (10525/2/02 REV 2).
2. According to points 16 and 17 of the "Road Map", the High Level Working Group on Asylum and Migration (HLWG) will:
 - draft a clause on joint management of migration flows and readmission, to be included in any future cooperation, association or equivalent agreement which the EU concludes with any country,
 - assess the relations with third countries with a view to identifying the countries with which to intensify cooperation,
 - prepare operational Council conclusions for GAERC in November 2002.

3. Based on the work of the HLWG, the Presidency has drawn up a draft Council conclusions on intensified cooperation on the management of migration flows with third countries, which was examined within the HLWG.

 4. On 13-14 November 2002, the **Permanent Representatives Committee** recorded agreement on the text of the draft conclusions as set out in the Annex and suggested that the Council adopt it under part "A" of the agenda of its 18-19 November 2002 session.
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DRAFT COUNCIL CONCLUSIONS
ON
INTENSIFIED COOPERATION ON THE MANAGEMENT OF
MIGRATION FLOWS WITH THIRD COUNTRIES

1. In accordance with the conclusions of the European Council at Tampere, an integrated, comprehensive and balanced approach to tackle the root causes of illegal immigration must remain the European Union's constant long-term objective. The European Council of Seville on 21-22 June 2002 highlighted the integration of immigration into the Union's relations with third countries and the importance of intensified cooperation with third countries for the management of migration, including the prevention and combating of illegal migration and trafficking in human beings. Recalling the Council conclusions of 15 October 2002 regarding urgent implementation of the conclusions of the European Council at Seville concerning the prevention and combating of illegal migration and trafficking in human beings, the Council welcomes work in progress and in planning pursuant to the Seville conclusions to carry forward dialogue and initiate operational projects with third countries.
2. Since Tampere, the EU - in cooperation with the relevant third countries - has integrated several issues related to migration in its long-term cooperation policy. The migration issue has been successfully put on the agenda of the dialogue between the EU and various countries, and substantial direct and indirect Community assistance has been programmed to support third countries in their efforts to address legal and illegal migration.
3. Recalling the Seville conclusions regarding cooperation with third countries of origin and transit to jointly combat illegal immigration, the Council wishes to intensify EU partnership cooperation with countries and regions of particular relevance. The Council underlines that the overall objective of the initiatives taken is to offer strengthened cooperation with such countries within the migration field in order to further improve the capacity of these countries to fulfil their roles in the international endeavours to deal with the many-faceted problems caused by illegal migration.

4. Taking account of the Council conclusions of 25-26 April 2002 regarding criteria for identifying third countries with which new readmission agreements need to be negotiated, the following set of criteria has been used to identify countries of origin or transit, with whom the Council considers that intensified cooperation should be established:
- Nature and size of migratory flows towards the EU
 - Geographical position in relation to the EU
 - Need for capacity building concerning migration management
 - Existing framework for cooperation
 - Attitude towards cooperation on migration issues.
5. Based on these criteria, the Council considers it important that intensified co-operation is developed, in the first instance, with the following countries with which there is existing cooperation capable of forming a basis for further progress: Albania, China, the Federal Republic of Yugoslavia, Morocco, Russia, Tunisia and Ukraine. It is stressed that the importance of migration issues with regard to these particular countries implies that further cooperation is not only desirable, but essential. The Council also considers it essential to initiate cooperation with Libya. Finally, the Council considers it important to continue and further strengthen cooperation with the EU candidate state Turkey, *inter alia* given its geographical position. The Council underlines that, where relevant, a regional approach will be pursued, with an emphasis on the neighbouring countries.
6. Based on the above list, the Council agrees that a comprehensive dialogue shall be pursued with each individual country with a view to strengthening cooperation. The initiatives taken shall be based on a country-specific needs assessment conducted in consultation with the countries in question. Furthermore, the Council will come back on this item by May 2003 on the basis of a progress report, drafted by the Commission.

7. Considering the need of strengthening the cooperation, the Council stresses the political importance of developing the efforts to fully integrate the external dimension of the JHA issues in the existing and future relations of the EU with third countries. Therefore, all existing or future comprehensive dialogues pursued with the identified countries should, where relevant, include subjects such as return, readmission and documentation, implementation of agreements on management of migration flows, preventive policies and technical assistance geared towards institutional capacity building. The Council and the Commission shall, within the remit of their respective powers, continue to ensure this integration of migration into the external relations of the European Union and to cooperate with relevant international organisations and processes.
8. Recalling the conclusions of the European Council in Seville, which urged that any future cooperation, association or equivalent agreement which the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration, the Council considers it essential that such a clause should contain the following elements:
- An in-depth dialogue on the issue of migration.
 - Commitment to take into account, in the framework of national strategies for economic and social development, of structural constraints associated with migratory flows with the purpose of supporting the economic and social development of the regions from which migrants originate.
 - Joint examination of issues arising from illegal immigration and trafficking in human beings, including the issue on how to combat illegal immigration and networks of traffickers, with a view to establishing, where appropriate, the means for a prevention policy.

- The return, under humane and dignified conditions, of illegally residing third country nationals and stateless persons.

- Confirmation of the obligation, upon request and without further formalities, to readmit any of their nationals illegally present on the territory of the other party, to provide their nationals with appropriate documents and to extend to them the administrative facilities necessary for such purposes.

- The conclusion of readmission agreements. These agreements shall also cover, as defined in the negotiating mandate given to the Commission, arrangements for readmission of third country nationals and stateless persons.

- Cooperation regarding migratory flows to promote a fair treatment of individuals residing legally on the territories of the parties through an integration policy favouring non-discrimination and fight against racism and xenophobia.

The European Community will, where relevant, be ready to consider the provision of adequate assistance to implement such clause.

The European Community expects third countries to fulfil their readmission obligations, in conformity with international law, and to respond positively to requests from the Community or its Member States in this regard. The Council agrees that, until negotiating directives have been given to the Commission to negotiate a readmission agreement, the country concerned should be ready to conclude a bilateral agreement with a Member State of the European Community on the request of that Member State, which contains the specific readmission obligations between this country and the requesting Member State, including the obligation to readmit nationals of other countries and stateless persons.
