

# CHAPTER ONE

## Structures, work programmes and the Trevi “acquis”

### Commentary

Intergovernmental cooperation in the EU (or EC as it was called in this period) started in 1967 with the signing, by the EEC's six member states, of the Naples Convention on mutual cooperation between customs authorities. Judicial cooperation between the Interior Ministries operated under banner of "European Political Cooperation" (EPC) and the COREU encrypted telex network was used when it was set up in 1973. The *ad hoc* groups of the pre-Maastricht period started with the Trevi Group. At a Council of Ministers meeting in Rome in December 1975 a UK initiative to set up a special working group was agreed and Trevi was set up in 1976. Five working groups were created and they reported to the Trevi Senior Officials group.

The Single European Act 1986 raised the consequences of a frontier-free internal market and the Ad Hoc Group on Immigration, again on a UK initiative, was set up in October 1986. The misleadingly titled "Coordinators group on the free movement of persons" was set up in 1988 to bring together the different groups covering terrorism, policing, customs, drugs, immigration and asylum, and legal cooperation. In 1989 they produced a coordinated work programme, the "Palma Document" and then moved on to draw up the new structures which were created under Title VI (Article K) of the Maastricht Treaty - the Council of Justice and Home Affairs Ministers, the K4 Committee, three Steering Groups and their Working Parties.

The pre-Maastricht arrangements were *intergovernmental*, that is, between the individual member states, and outside the framework of the Community. The European Parliament and European Court of Justice were excluded, the Commission was sometimes involved (this remained after the new Treaty too). The various groups operated on an *ad hoc* basis which allowed for little or no scrutiny by national parliaments. Operating in secret with little media attention the value of these groups - to the governments - was that they allowed officers and officials - police, immigration, customs, internal security, and ministry representatives - to "get to know each other" and to establish "*informal*" contacts in other member states.

This section starts the "Declaration" from the meeting of Interior Ministers in Brussels in April 1987. It is followed by the work programme of the EU member states is set out in the "Palma Document" adopted in 1989.

Three texts cover the development of the post-Maastricht structures: the Coordinators' Group report in December 1992; selected extracts from a special European Summit called by the Belgian Presidency in October 1993, and the text of Title VI of the Maastricht Treaty.

Also included is a report on the European Information System (EIS) from 1992 - the EIS, covering all 15 member states, is intended to take over from the Schengen Information System (SIS) when the External Borders Convention is finally adopted. Agreement on this latter Convention has been held up since 1991 by a dispute between the UK and Spain over the status of Gibraltar.

Finally the "Trevi Acquis" and supplementary information on police cooperation is included. This represents the best available summary not just of what had been "achieved" by October 1993 but also the sum total of agreements or practices underpinning the measures agreed after 1 November 1993.

# 1

## Declaration of the Belgian Presidency

### Introduction

Information on the workings of intergovernmental cooperation between 1976 and 1986 is very limited. The Trevi group, started in 1976, reported annually to an informal meeting of Interior Ministers. On 20 October 1986, under the UK Presidency, there was a special meeting in London of Interior Ministers which decided to set up the Ad Hoc Group on Immigration (*Home Office press release*, 18.7.86). Belgium took over the Presidency in January 1987 and established a pattern of six-monthly meetings of "Trevi Ministers" and "Immigration Ministers". Reproduced here is the text from the meeting in April 1987.

### Declaration of the Belgian Presidency: Meeting of Justice and Interior Ministers of the European Community, in Brussels, on 28 April 1987

Under the presidency of the Deputy Prime Minister Jean Gol, Minister for Justice and Mr Joseph Michel, Interior Minister, the meeting of the TREVI Ministers took place in Brussels on 28 April 1987. It was preceded on the same day by an "ad hoc" meeting devoted to questions related to immigration, and on the 27 April by a meeting of the Trevi Troika, composed of the current Presidents and their immediate predecessor (UK) and successor (Denmark).

The Troika had talks with Mr Edwin Meese, Attorney General of the United States, Mr James Kelleher, Solicitor General of Canada, and Mr Karl Blecha, Austrian Interior Minister.

#### I. "AD HOC" MEETING ON IMMIGRATION

In the presence of Lord Cockfield, Vice President of the Commission of European Communities, the Ministers of the twelve states of the EC responsible for immigration, the fight against drugs and terrorism, further to what they had agreed at their meeting in London on 20 October 1986 and on the basis of the work of the ad hoc group which they had then created, repeated the necessity to further strengthen their cooperation on these matters with a view to achieving freedom of movement with the Community in 1992, as provided for in the Single European Act. They came to the following conclusions:

#### A. Problem of immigration in general in the Member States of the Community

The Ministers defined the general outline of future work of the group:  
a) Visa policy

Visa policy has a particularly important role to play in the strengthening of controls at external borders.

A common visa policy should aim to achieve two objectives:

- to progressively work towards a system for visas which is as unified as possible between the Member States, including the criteria for issuing visas;

- to contribute to better controlling the problems which result from immigration in general.

In the framework of the coordination and possible harmonisation of the regulations of the Member States with regard to visas, the Member States will first undertake a systematic examination of the documents which they require, including transit visas, with a view to working towards, if possible, requiring the same documents.

#### b) Control at the external borders of the Community

A reduction in, and finally the abolition of, controls at the internal borders of the Community must be accompanied by, and depends on, a strengthening of controls at the external borders of the Community.

##### 1) External borders

The work of the group will focus on the following questions:

- the controls at port and airport borders, for which there will be good reason to plan a strengthening of controls, taking into account the characteristics of each of these borders. Taking into account the necessity to improve the comfort of Community travellers, it will be necessary to study the means which will mean that it is avoided that these travellers suffer from the strengthening of controls. In this respect, a check of travellers according to their status as a national of a Member State of the Community or not, should be organised without however restricting the efficiency of controls from the point of view of the fight against illegal immigration from third countries, terrorism, drugs and crime;

- controls at land borders;

- the situation of Member States with an extensive sea border, the control of which is by definition very difficult;

- the means to repatriate third country nationals who are illegally residing in the Community.

Common rules should be able to be applied to all the controls, such that the Member States which are carrying out controls at external borders, carry out the checks which all the other Member States need.

##### 2) Internal borders

In view of the fact that the different measures which are envisaged will not totally prevent illegal entry:

- controls at internal borders should be maintained as long as is necessary for alternative agreements to be drawn up, taking into account, as far as nationals of Member States are concerned, measures of the directive which is currently being drafted;

- the procedures for controls in the territories of the Member States of illegal third country nationals should be strengthened and procedures for sending back illegal immigrants should be effectively implemented;

- the Member States which have not concluded readmission agreements with one or another Member State should start negotiations to this effect.

#### B. Political asylum seekers

The Ministers reminded the meeting of the vocation of the Member States to receive persecuted individuals and they stressed their wish to fully respect the Geneva Convention. Furthermore they consider that the States can, for humanitarian reasons, authorise the residence of foreigners who do not fulfil the conditions provided for by this Convention.

The Ministers stated, nevertheless, that it regularly occurs that the request for political asylum is abused. In order to combat this abuse, the

Ministers agreed the following principles:

#### 1. Before arrival on national territory

Transport

The Member States:

- will remind transport operators of the obligations of Annex IX of the Chicago Convention;

- will oblige transport operators who bring a person into a country of the Community without the required documents, to take this passenger back and to cover the necessary costs until their departure;

- will ensure, if they consider it appropriate, in some third countries, at the time of embarkation, a control of travellers' documents. This control is carried out either possibly by a consular agent, in agreement with the State where the airport or port is situated, or by an agent of the transport company;

- if need be, will take sanctions against transport operators who are responsible for having brought a traveller without the required documents.

In order to allow requests to be examined in the best conditions, it is recommended to make provision for areas where asylum seekers can be received during the first phase of the investigation of their request.

#### 2. Procedure for examining requests

Subject to particular situations which they can be confronted with, the Ministers agreed to apply a simplified procedure for examining asylum applications when they do not obviously fulfil certain required criteria, for example, if the request is manifestly unfounded or when the person is suspected of jeopardising public order or national security.

The Ministers also took measures to combat:

- simultaneous requests in several Member States,

- subsequent requests after a negative decision by a Member State.

The Ministers considered that when a Member State decides to refuse an asylum application, this State ensures that the person in question does not go to another Member State unless this is in agreement with the latter or unless the foreigner fulfils the legal requirements to go there.

The Member States could facilitate a person's departure to a third country by giving material assistance.

#### 3. False documents

The Ministers mandated the group to take measures with a view to improving collaboration between the Member States on the subject of forged identity and general travel documents. The work which, by its nature is confidential, concerns:

- the preparation of a bulletin on the subject of fraud which has been detected, which is aimed at all Member States;

- cooperation with a view to making documents which are more guaranteed against fraud.

## II MEETING OF TREVI MINISTERS

The Heads of State and Government, meeting in London on 5 and 6 December 1986, devoted a large part of their conclusions to safeguarding free society, by examining in particular how to further intensify cooperation in the fight against terrorism, illegal immigration and drug trafficking.

These problems are essential from the perspective of the realisation of free movement within the Community, as the Single European Act provides for.

The TREVI group is primarily competent for achieving the objective of the Member States that they pool their resources in order to strengthen their capacity to the maximum to prevent acts of terrorism and to bring those responsible to justice.

The TREVI group must also play an important role in the fight against drug trafficking and the illegal use of drugs, in particular by intensifying the cooperation between police services and customs administrations, as well as by exchanging liaison officers between different countries of the Community and by sending such officers to other countries.

In the two areas mentioned, terrorism and drugs, the Heads of State and Government insisted on intensifying cooperation with friendly third countries.

The Belgian Presidency wanted to situate itself in line with the conclusions of the London European Summit.

#### A. Functioning of the TREVI group

The Ministers noted the progressive implementation of a protected communications network between the services concerned of the Member States which they had decided on at their previous meetings.

The Ministers were sensitive to the arguments expressed in favour of setting up a light administrative structure in order to follow through the work. They stressed the necessity for an experimental and progressive phase.

In a first stage, a Troika will be constituted at the level of civil servants with a broad experience of TREVI issues. Contact as frequently as necessary will thus take place, in order to profit from experience.

The Danish Presidency will undertake an evaluation of this first phase and will make recommendations with a view to determining future stages for implementing a real "TREVI store of information".

In this respect, the Belgian Presidency drafted a summary of work of the TREVI group since it began, on 11 subjects chosen from the most important ones.

Relations with third countries and with other international bodies were the subject of a presentation by the Presidency, which showed the extent of their recent development.

Thus the Ministers of the Troika (Belgium, Great Britain and Denmark) met the Attorney General of the United States, Mr Meese, the Solicitor General of Canada, Mr Kelleher and the Austrian Interior Minister, Mr Blecha on 27 April. Contacts with other third countries sharing the same opinion with regard to terrorism and organised crime, have been made by the Belgian Presidency (Switzerland, Sweden, Australia).

#### B. Terrorism

Firstly, the Ministers finalised the practical methods for carrying out the Bonn agreement of 8 November 1984, approved in Rome on 21 June 1985, on the exchange of information by Member States of TREVI on undesirable foreigners from third countries. This concerns foreigners who present a terrorist threat. This agreement will now be able to take its full effect. The working group I will continue to study the means for improving the control of persons and goods from regions where there is a high risk of terrorism.

The Ministers concluded an agreement on the constitution of an international exchange of information between the Member States of TREVI on thefts and discoveries of arms and explosives, suspected of being intended for terrorist purposes. This significant information also concerns traces and residues which can be analysed.

They approved a procedure for evaluating terrorist threats in the countries of the European Community. This evaluation will henceforth be done on a permanent basis, thanks to the TREVI protected communication system. Furthermore, it includes external as well as internal threats.

A report, presented by the Belgian presidency, on the evaluation of the threat which terrorism poses to the countries of the European Community, received the approval of the TREVI Ministers who decided to communicate it to their Foreign Affairs colleagues, in the framework of political cooperation.

#### C. Drug trafficking

The Ministers were pleased about the excellent results obtained by experts in the field of the fight against the illegal trafficking of drugs.

They approved a first agreement allowing "drug" liaison officers, currently in post in third countries, to be used immediately for the benefit of all Member States of the Community.

It was agreed that a more detailed agreement, regulating in particular the problems regarding status and allowing a harmonisation of the geographic distribution would be examined in the following presidency.

The Ministers also decided to continue work on the special enquiry methods in the fight against the illegal trafficking of drugs.

#### D. Various

The Ministers looked at the activities of the TREVI group concerning protection against fire. This activity is part of the original mandate of the TREVI group.

The activities of the relevant working group have enabled the EEC to draft a directive concerning the means of command in the protection against fire. They are developing in the direction of collaboration between the different Member States in the field of the fight against catastrophes. The problems of protection against fire in maritime ports in particular are on the agenda.

The Ministers recognise the very positive nature of this work but intend, given their extent, to put it under the direction of a ministerial conference concerned more specifically with civil protection.

They also noted the advanced state of the work of experts on armaments and equipment of police forces and security companies, and on office automation and information technology as management tools for police forces.

The Ministers remain concerned by the proposals which could limit the capacity of security services to control the movement of firearms when crossing Community borders. They agreed to inform the European Commission of their opinion according to which any new measure facilitating the free movement of goods within the Community must not forbid national authorities to carry out the controls which it considers appropriate for the movement of firearms, when Community borders are crossed.

Finally, a network of permanent correspondents was put in place on the subject of hooliganism at sports meetings.

# 2

## “The Palma Document” Free Movement of Persons. A Report to the European Council by the Coordinators' Group

### Introduction

The "Palma Document" (June 1989) is reproduced in full below. It was drawn up by the "Coordinators' Group on the Free Movement of Persons" just six months after they had been set up in December 1988 at the Rhodes European Council meeting (see *Statewatching the new Europe: a handbook on the European state*, especially Chapter 1).

Following the adoption of this work programme the Coordinators' Group made regular reports to the Council on its progress. The *Report to the European Council in Edinburgh from the Coordinators Group on Free Movement of Persons*, CIRC 3687/1/92, Confidential, Brussels, 3 December 1992 is reproduced in full in Document no 3. It includes a comment on the European Information System, itself dependent on the External Frontiers Convention: "The draft text of an instrument [EIS] based on relevant provisions of the Schengen Convention has been tabled..."

By June 1993 the ideology of the creation of a border free Europe was explicitly bringing with it new controls at the borders and internally. On the one hand: "The European Community defines itself as an area of freedom and democracy where the protection of human rights and the security of all in respect of the law are guaranteed." On the other it: "guarantees measures are adopted in order to avoid the elimination of controls at borders between Member States being a source of abuse, facilitating crime, terrorism or drug trafficking, or increasing illegal immigration".

And: "The actual deportation of people who are living illegally on the territory of the Member States should, according to the Presidency, be the subject of particular attention in as far as national efforts must be complemented by a European approach. In the view of the Presidency, this credible and transparent European approach is essential. In effect, the increase in migratory pressure goes hand in hand with the economic crisis. Uncontrolled immigration could in the end destabilise our societies and undermine the integration of third country nationals who are legally resident in the Member States."

Source: *Group of Coordinators "Free Movement of people" - work programme of the Belgian Presidency*, CIRC 3653/93, Confidential, Brussels, 28 June 1993.

## “The Palma Document” Free Movement of Persons. A Report to the European Council by the Coordinators' Group (Madrid, June 1989)

Reference: original, 1989

### NOTE ON THE FREE MOVEMENT OF PERSONS

#### I.

1. The Single European Act sets as an objective for the Community the establishment by 31 December 1992 of "an area without internal

frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty".

The Rhodes European Council, reviewing the establishment of the Internal Market, called on the Council to step up its efforts in all areas where progress was slow, such as the free movement of persons. "The achievement of the Community's objectives, especially the area without internal frontiers, is linked to progress in inter-governmental cooperation to combat terrorism, international crime, drug trafficking and trafficking of all kinds. This cooperation will be stepped up in order to achieve rapid and concrete results which will enable the Community, for its part, to take the necessary measures to turn Europe into a tangible reality for its citizens. To this end each Member State will appoint a person responsible for the necessary coordination."

2. The Group of persons responsible for coordination (Coordinators' Group-Free movement of persons) met on 22 February, 17 March, 5 April, 26 April and 17 May in Brussels and from 4 to 6 June in Palma de Mallorca. Member States' representatives were Mr Pastor (Presidency), Mrs Delvaux (Belgium), Mr Vesterdorf (Danish), Mr Neusel (FRG), Mr Georgiou (Greece), Mr Blanc (France), Mr Crowley (Ireland), Mr De Michelis (Italy), Mr Elsen (Luxembourg), Mr Grosheide (Netherlands), Mr Sousa Vicente (Portugal), Mr Hyde and Mr Langdon (United Kingdom). The Commission of the European Communities was represented by Mr Bangemann, Vice-President.

3. In the course of the Group's discussions it was recognised that differing views were held on their legal and political framework, in particular on the interpretation and scope of the relevant Treaty provisions inter alia Article 8a of the EEC Treaty, and the obligations flowing therefrom, the extent to which political decisions in this field had already been taken and where the competence for taking decisions and action lay. It was agreed to set those differences on one side for the purposes of the Coordinators' discussions, and this is reflected in this report. Accordingly, the report in general, and the recommendations for measures to be taken, represent practical steps upon which all could agree and do not prejudice the legal and political questions. In many instances the measures proposed, for example those regarding provisions on immigration, mutual legal assistance and greater cooperation between law enforcement agencies, are ones which are desirable in their own right, though equally their implementation assumes greater urgency and importance in the light of objective of free movement.

4. The Co-ordinators' meetings are not an extra forum for discussions; the Co-ordinators are responsible for:

- coordinating, giving an impetus to and unblocking the whole complex of intergovernmental and Community work in the field of the free movement of persons; and

- submitting to the Madrid European Council a report on the free movement of persons and the establishment of an area without frontiers, including the measures to be adopted by the responsible bodies and a timetable for their implementation.

5. Issues connected with the free movement of persons pose a problem as to methods to be pursued, owing to the multiplicity of fora in which they are discussed - the Community, Political Cooperation, Ministers for Immigration, Trevi Group, Council of Europe-and which will have to be coordinated.

#### II.

1. The Co-ordinators' Group initially:

- (a) drew up a catalogue of the measures which must be adopted, making a distinction between essential and desirable measures;

- (b) defined, with due regard for their respective fields of competence, the main fora within which the measures could be examined with a view to taking a decision:

- the ad hoc Working Group on Immigration for the conditions governing the crossing of barriers;

- the Trevi Group and in particular the Trevi 1992 Group with regard to cooperation on law enforcement and, if necessary, related legal problems;
- the Working Group on Judicial Cooperation as part of European Political Co-operation (international treaties, national and Community legislation);
- Community bodies for matters within the Communities' jurisdiction.

These Groups would keep the Coordinator's Group regularly informed of their activities;

(c) proposed the priorities for adopting these measures and suggested target dates for adopting all the measures.

The data which emerged from the discussions are given in Annex 1 (see below).

2. The Co-ordinators' Group, with the authority conferred on it by the mandate from the Rhodes European Council, seeks confirmation from the Madrid European Council that its tasks should be the following:

(a) to ensure that the various bodies mentioned in the Annex carry out the tasks assigned to them in accordance with the agreed target dates,

(b) to give an impetus to the progress or conclusion of the proceedings in the various bodies. In this context, each coordinator should give the proceedings the impetus necessary to eliminate the obstacles which prevent delegations from supporting a possible consensus.

To carry out its task more efficiently in the short term, the Coordinators' Group concluded that it should concentrate on fora within Community competence and covered by inter-governmental cooperation among the Twelve.

### III.

The achievement of an area without internal frontiers could involve, as necessary, the approximation of national laws and their rules of application and scope, collaboration between national administration and a prior strengthening of checks at external frontiers. It is a task with two facets: "ad intra" and "ad extra".

A. In its "ad intra" facet the abolition of internal borders affects a whole range of matters, in particular:

(a) *Combating terrorism, drug trafficking, and other illicit trafficking:* The creation of an area without internal frontiers, in accordance with the Treaty, will require checks at external frontiers to be tightened up, which will involve increased inter-governmental cooperation.

(b) *Improved cooperation on law enforcement:* This improvement will in particular involve closer co-operation between the Member States' law enforcement agencies, and an improved system for exchanging information.

(c) *Judicial co-operation:* Judicial cooperation should be intensified, particularly in criminal matters, in order to combat terrorism, drug trafficking, crime and other illicit trafficking. In this context, the possibility of harmonising certain provisions should be studied.

(d) *Control of articles accompanying travellers:* 1. Veterinary checks; 2. Plant health checks; 3. Protection of endangered species of flora and fauna; 4. Weapons; 5. Drugs; 6. Checks on illicit trafficking in works of art; 7. Exchange controls; 8. Tax checks;

(e) Matters such as those deriving from family problems ("legal" abduction of children and trafficking in minors, for example) should also be mentioned.

B. In its "ad extra" facet, the creation of an area without internal frontiers would necessitate tighter controls at external frontiers. Controls carried out at those frontiers are in fact valid for all the Member States. Those controls must be highly effective and all the Member States must be able to rely on them. If necessary, consideration should be given to the conditions and the manner in which the Community might contribute to

financing certain types of infrastructure, bearing in mind that controls at its external frontiers are being strengthened.

To this end, a set of legal, administrative and technical instruments should be established, as criteria will need to be harmonised on treatment of non-Community citizens. Amongst the legal measures, attention should be drawn to the following:

- the conditions governing entry into the Community of nationals of third countries. This point relates particularly to visa policy, especially:

- establishment of a common list of countries whose citizens are subject to a visa requirement;

- establishment of a common list of persons to be refused entry;

- harmonisation of the criteria for granting visas, while allowing for the specific circumstances of certain applicants to be taken into account;

- a European visa;

- grant of asylum and refugee status; a common policy will be based on Member States' obligations pursuant to their accession to the Geneva Convention and the New York Protocol. This policy will initially focus on the following aspects:

- acceptance of identical international commitments with regard to asylum;

- determining the State responsible for examining the application for asylum;

- simplified or priority procedure for the examination of clearly unfounded requests;

- conditions governing the movement of the applicant between Member States;

- study of the need for a financing system to fund the economic consequences of implementing the common policy.

In keeping with the traditional values of the Member States of the Community, the Coordinators insist that the stepping-up of controls at external frontiers should not go beyond what is strictly necessary for safeguarding security and law and order in the Member States. They also draw attention to the Declaration against Racism and Xenophobia adopted in 1986 by the European Parliament, the Council, the Representatives of the Member States and the Commission.

## ANNEX I

### **Inventory of measures concerning free movement of persons which should be adopted within the various fora and timetable for their implementation**

#### DEFINITION OF PRIORITIES

#### INTRODUCTORY NOTE

The inventory drawn up at this stage by the Co-ordinators' Group cannot be exhaustive. It will be for each forum to add to it if need be, and to notify the Co-ordinators' Group.

When the co-ordination group refers to fora which are wider than those in which the Twelve meet each other, it is understood that it is a matter of co-ordinating the position of Community Member States in these fora.

"Essential" measures are those which the Co-ordinators consider in the light of Article 8a of the Single European Act should be given the highest priority. "Desirable" measures are not of the same indispensable character but should be implemented wherever possible.

In the case of some of the measures which are envisaged, certain delegations have stressed the need for financial solidarity in putting them

into practice. The Co-ordinators' Group has agreed to propose that the fora concerned should study the financial consequences and, if appropriate, the financing method. This concerns notably the consequences of the strengthening of controls at external frontiers, including the measures referred to in the Annexes I.A.7., V.B.3., VI.B.5., VII.B.

The timetable for this inventory is indicative. It is for each forum to define its priorities, having regard to the 1992 deadline and to the best endeavours it can make in its sector.

The Co-ordinators' Group will review the timetable regularly, at least every six months, which will enable it to amend and expand on it as necessary, to note any delays and to give work the required impetus accordingly.

## **I. Action at external frontiers (competent fora: WGI, TREVI, Mutual Assistance Group)**

### *A. Measures which are essential*

1. Definition of common measures in respect of checks which must be carried out after 1992 and of a system of surveillance at external frontiers [Timetable: 1990]
2. Definition of ports and airports as external or internal frontiers [Timetable: 1990]
3. Improved co-operation and exchange of information between law enforcement agencies and customs [Timetable: 1991]
4. Solution to the problems raised by Member States' agreements with third countries [Timetable: Before 31.12.1992]
5. Combating illegal immigration networks [Timetable: Before 31.12.1992]
6. Establishment of a system for exchanging information on persons who are: (a) wanted; (b) inadmissible [Timetable: End of 1990]
7. In view of the strengthening checks at external frontiers, examination where appropriate of the conditions and manner of financing certain types of infrastructure [Timetable: As checks are implemented]

### *B. Measures which are desirable*

1. Agreement on training of staff responsible for carrying out checks [Timetable: end of 1989]
2. Implementation of checks and organisation of passenger movement at ports and airports, depending on the outcome of point A.2 [Timetable: In stages by 31.12.1992]
3. Harmonisation where necessary of laws on aliens in general and immigration in particular [Timetable: End of 1992]
4. Regular circulation of an information bulletin on forged papers [Timetable: 1st half of 1989]

## **II. Action at Internal Frontiers and inside the Territory of the Community (competent fora: WGI, TREVI, Council)**

### *A. Measures which are essential*

1. Study of the abolition of checks on third-country nationals [Timetable: End of 1989]
2. Conclusion of bilateral or multilateral re-entry/readmission agreements of third country nationals [Timetable: End of 1990]
3. Off-setting measures with regard to the following: [Timetable: End of 1992]

- (1) Illegal immigration (see data sheets I, V and VII)

- (2) Drug trafficking (see data sheets I and III)
- (3) Other illicit trafficking (see data sheets I and IX)
- (4) Articles carried by travellers (see data sheets I and IX)
- (5) Judicial co-operation in criminal and civil matters (see data sheet VIII)
- (6) Visa policy (see data sheet V)
- (7) Right of asylum and refugee status (see data sheet VI)
- (8) Terrorism (see data sheets IV and VIII)
- (9) Development of a common system of search and information (see data sheet 1) [Timetable: 1992]
- (10) Determination of an improved system for the exchange of information (see data sheet IV) [Timetable: 1991]

NB: The proposal for a Directive on the easing of controls at internal borders (competent forum: Internal Market Council) has been on the Council's table since June 1987.

- (11) Harmonisation of the law on the acquisition and possession of arms and reciprocal information exchange on the acquisition of arms (see data sheet IX) [Timetable: 1992]

4. Co-operation between law enforcement agencies and customs in border areas [Timetable: In stages until the end of 1992]

### *B. Measures which are desirable*

Offsetting measures with regard to the following:

1. Obligation for foreigners to fill hotel registration forms [Timetable: 1992]
2. Development and execution of programmes for the exchange of staff [Timetable: 1992]
3. Exchange of liaison officers
4. Conception of a scheme of language training for members of law enforcement agencies [Timetable: 1991]

## **III. Action in Connection with Combating Drug Trafficking (competent fora: Working Party on Drug Addiction, EPC, TREVI, Pompidou Group, UN, Mutual Assistance Group)**

### *A. Measures which are essential*

1. Ratification of 1961 and 1971 United Nations Conventions. Signing and ratification of the 1988 Vienna Convention. Regular review of the list of prohibited substances resulting from these Conventions [To be updated each year]
2. Encouraging the Trevi 1992 Group to draw up a report setting out the off-setting measures necessary in anticipation of the creation of the space without internal frontiers [see point I.A.7; timetable: report: end of 1989]
3. Study of the desirability of harmonising laws and their implementing procedures on narcotic drugs and psychotropic substances (eg possession of small amounts for own use) [Timetable: 1992]

### *B. Measures which are desirable*

1. Signing by the Community of the UN Convention of 20 December 1988 against Illicit Traffic in Narcotic Drugs and Psychotropic Substances [Timetable: 1st half of 1989]
2. Establishment of a European drug-addiction information system [Timetable: 1989 (to be implemented later)]

3. Creation of a uniform system for detecting the presence of narcotics and psychotropic substances in body fluids [Timetable: 1992]

4. Definition of a common policy with producer countries (compensation after verification for destruction of drug crops, liaison staff) [Timetable to be updated each year]

5. Promotion of different forms of co-operation, for example fiscal and banking co-operation, which would make it possible to detect transfers and laundering of proceeds from drug trafficking [Timetable: 1992]

#### **IV. Terrorism (competent fora: TREVI, EPC)**

##### *A. Measures which are essential*

1. Intensification of the exchange of information about the removal of citizens of third countries which represent a possible terrorist danger to security [Timetable: 1989]

2. Permanent targeted exchange of information concerning known members of and activities of terrorist groups in one of the Member States of the Community, when the security interests of another Member State may be affected [Timetable: 1989]

3. Intensification of co-operation, especially in actual police search operations, possibly including the use of public bulletins [Timetable: 1989]

4. Establishment of a central registry concerning false documents, explosives, detonators and other similar information which strengthens the fight against terrorists [Timetable: 1991]

5. Examination of the creation within the common system concerning wanted persons of sections concerning the removal of citizens of third countries and concerning police surveillance of suspects [Timetable: 1992]

##### *B. Measures which are desirable*

1. Completion of the organisational structure of the Trevi Group, notably Trevi 1992 (Permanent Secretariat) [Timetable: 1990]

2. Examination of the creation of a central instrument for the collection and evaluation of intelligence concerning terrorism [Timetable: 1991]

#### **V. Action in connection with admission to Community territory (Visa Policy) (competent forum: WGI)**

##### *A. Measures which are essential*

1. Common list of countries whose citizens are required to have a visa [Timetable: list updated every six months]

2. Harmonisation of criteria and procedures for granting visas. Diplomatic and consular co-operation [Timetable: measures decided in 1988 and being applied]

3. Common list of inadmissible persons and elaboration of a convention for this purpose and procedure for prior notification in the event of a visa being issued by a Member State to a person on the list [Timetable: End of 1989 (transitional solution): States send each other their lists. End of 1992: application of convention]

##### *B. Measures which are desirable*

1. Common visa application form [Timetable: End 1989]

2. Introduction of a "European visa" [Timetable: End of 1992]

3. Computerisation of the exchange of information needed in visa processing. Study of Community funding [Timetable: end of 1991]

#### **VI. Action in connection with grant of asylum and refugee status (competent bodies: WGI, Council of Europe, United Nations)**

##### *A. Measures which are essential*

1. Determination of the State responsible for examining the application for asylum [Timetable: Agreement in principle]

2. Preparation of the Convention resulting from point 1 [Timetable: 1992 (entry into force)]

3. Agreement on conditions governing the movement on the territory of the Twelve Member States while their application is being examined of applicants for [Timetable: 1992]

(a) asylum

(b) refugee status

4. Recourse to a simplified or priority procedure, according to national legislation, in the case of unfounded applications [Timetable: End of 1989]

5. Acceptance of identical international engagements with regard to asylum [Timetable: 1992]

##### *B. Measures which are desirable*

1. Diplomatic and consular co-operation (preparation of joint reports). [Timetable: Being implemented]

2. Data bank [Examination of this point also covers other matters such as refusal to grant visas and forged papers] for storing information on the places and dates of submission of applications for asylum [Timetable: 1st half of 1990]

3. Possible approximation of criteria for granting

(a) the right of asylum

(b) refugee status

[Timetable: 1st half of 1990]

4. Community funding of programmes for training officials [Timetable: 1st half of 1992]

#### **VII. Other action (removal) (competent forum: WGI)**

##### *A. Measures which are essential*

1. Introduction of observation periods in connection with the financial aspects of removal [Timetable: Measures decided]

2. Determination of the Member State responsible for removal [Timetable: 1989]

##### *B. Measures which are desirable*

Possible setting up of a system of financial solidarity [Timetable: 1992]

#### **VIII. Judicial Co-operation in Criminal and Civil Matters (competent forum: EPC)**

##### *A. Measures which are essential*

1. Commitment by States which have not already done so to promote the ratification of the European Convention on Extradition within a year [Timetable: 1st half of 1989]

2. Commitment to expedite ratification of the agreements concluded between the Twelve to improve judicial assistance in criminal matters [Timetable: 1st half of 1989]

3. Systematic examination of the desirability of ratifying agreements concluded in the Council of Europe to improve international judicial assistance in criminal matters [Timetable: Commitment: 1st half of 1989]

4. Common system of improved channels for communicating extradition requests:

- by designating in each Member State central authorities responsible for transmitting and receiving extradition requests

- by simplifying and modernising means of transmitting extradition requests  
[Timetable: End of 1989]

#### *B. Measures which are desirable*

1. Examination of the harmonisation of the legal description of criminal charges [Timetable: End of 1992]

2. General study of the widening of judicial co-operation, notably the pursuit of law-breakers and the execution of judgments [Timetable: 1992]

3. Commitment by States which have not already done so to sign and/or ratify the Hague Convention on the Civil Aspects of International Child Abduction (1980) [Timetable: 1st half of 1989]

4. Commitment by States which have not already done so to sign and/or ratify the Luxembourg Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody on Children (1980) [Timetable: 1st half of 1989]

5. Further work on the elaboration of an agreement on the simplification of the procedure for securing the payment of alimony from abroad [Timetable: 1992]

#### **IX. Articles carried by travellers (competent forum: Council)**

The main purpose of the measures listed in this Annex, proposed by the Commission, is the creation of the single market for trade purposes. The same measures, when adopted and applied, will serve to solve the more limited problem of articles carried by travellers. If these measures are not adopted, other measures to deal with these limited problems, for example, live animals accompanying travellers, may have to be found.

#### *A. Measures which are essential*

1. Plant health checks: (a) Carrying out of checks at places other than frontiers as laid down by Directive 88/572/EEC of 14.11.1988 [Timetable: 1st half of 1989] (b) Approval of the proposal for a Directive (COM(88) 170 final) to reduce progressively intervention in plant health checks by Member States of destination [Timetable: End of 1989]

2. Weapons: The Commission has said that it will transmit a revised proposal for a Directive about controlling the acquisition and possession of firearms (COM(87) 383 final) [Timetable: 1991]

3. Veterinary checks: (a) Approval of the draft Regulation on veterinary checks in intra-Community trade [Timetable: end of 1989] (b) Approval of the proposal for a Regulation introducing animal health and vaccination certificate for dogs and cats travelling to another Member State (COM(88) 836 final) [Timetable: end of 1989]

4. Protection of species of fauna and flora threatened with extinction: Revision of Regulations Nos. 3626/82 and 3418/83 so as to discontinue intra-Community border checks while concomitantly tightening up controls at external frontiers [Timetable: 1991]

#### *B. Measures which are desirable*

1. Abolition of tax checks. [Timetable: 1992. Depending upon the timetable already decided on for the liberalisation of capital movements]

2. Abolition of exchange controls [Timetable: 1992. Depending upon progress in the harmonisation of indirect taxation]

3. Works of art: (a) Ratification and application of the 1985 Council of Europe Convention on the protection of cultural property [Timetable: 1991]; (b) A communication is awaited from the Commission on illegal traffic in works of art [Timetable: 1990]; (c) In order to facilitate legal trade in works of art, while safeguarding the European artistic heritage, examination of the desirability of a European register for the stocktaking and protection of works of art.

## **ANNEX II**

### **Agreements and Conventions concluded between the Twelve Member States of the European Communities:**

- Agreement between the Member States of the European Communities on the application of the European Convention on the Suppression of Terrorism;

- Agreement on the application between the Member States of the European Communities of the Council of Europe Convention on the Transfer of Sentenced Persons;

- Convention between the Member States of the European Communities on Double Jeopardy;

#### *Conventions concluded within the framework of the Council of Europe:*

- European Convention on Extradition of 13 December 1957 and its Additional Protocols;

- European Convention on the Suppression of Terrorism of 27 January 1977;

- European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and its Additional Protocol;

- European Convention on the International Validity of Criminal Judgments of 28 May 1970;

- European Convention on the Transfer of Proceedings in Criminal Matters of 15 May 1972;

- Convention on the Transfer of Sentenced Persons of 21 March 1983;

- European Convention on the Compensation of Victims of Violent Crimes of 24 November 1983.

# 3

## **Report to the European Council in Edinburgh from the Coordinators' Group on Free Movement of Persons**

### **The post-Maastricht structures**

A number of reports show the thinking behind the new structures to be implemented when the Maastricht Treaty came into effect on 1 November 1993. Two of these reports (Documents no 3 & 4) give a good insight into the Member States' thinking and objectives.

For background reading see: *Statewatching the new Europe: a handbook on the European state*, Statewatch, 1993 (especially "Trevi, Europol and the European state, pp15-36); *The Council of the European Union*, Martin Westlake, Catermill Publishing, 1995, pp233-251; *Justice and Home Affairs in the European Union*, Bieber R and Monar J (eds), European Interuniversity Press, 1995, "The K4 Committee and its position in the decision making process", Michael Niemeier, pp321-331.

The political rationale marking the shift from the *ad hoc* mechanisms developed from 1976 to the new Council of Justice and Home Affairs Ministers and the K4 Committee is set out in the Conclusions of a special meeting of the European Council in Brussels on 29 October 1993 under the Belgian Presidency (see Document no 5).

Reproduced below is the *Report to the European Council in Edinburgh from the Coordinators' Group on Free Movement of Persons*, dated 3 December 1992 which sets out the future programme and structures.

A number of other reports, not included in this volume, also cover the practical proposals for implementing Title VI (Article K) of the Maastricht Treaty agreed in December 1991.

A report in April 1992 sets out the five areas where "work programmes" had already been "adopted":

- the Treaty on European Union and the declarations attached to it;
- Asylum and immigration policy programmes (Maastricht European Council);
- European plan to combat drugs in its non-Community aspects;
- TREVI action programme (TREVI Ministers in Dublin);
- Palma document (Madrid Council).

Another report in May 1992 deals with the changes needed in the Council, COREPER and the General Secretariat of the Council following the implementation of the Maastricht Treaty (Treaty of European Union, TEU, entering into force on 1 November 1993). It defines the role of the General Affairs Council (Foreign Affairs Ministers) as including "institutional matters" and of considering all reports to go to European Councils. One rule change to be introduced was that:

"any decision or operational conclusion adopted in a meeting of Ministers alongside a Council meeting (eg: over lunch) must be confirmed in the plenary Council meeting."

A new Directorate General H within the General Secretariat of the Council was to be created with 22 staff.

The classification of documents and their confidentiality was of concern:

"The General Secretariat is in any event planning to set up a special office for 1 January 1993 to take charge of classified information, in particular operations relating to the recording, reproduction, translation, transmission, *conservation and destruction* of such information" (emphasis added).

The General Secretariat of the Council was to have two external offices: one in Geneva (which already existed) and one in New York "to be established".

## Introduction

The report below was presented to the European Council in Edinburgh in December 1992 under the UK Presidency a year after the Maastricht Treaty was agreed. It has two parts: 1) an update on the progress of measures set out in the Palma document; 2) in the Annex, the proposed "Work structures for Title VI".

## Report to the European Council in Edinburgh from the Coordinators' Group on Free Movement of Persons

Reference:

3 December 1992  
CIRC 3687/1/92  
REV 1  
CONFIDENTIAL

Subject:

Report to the European Council in Edinburgh from the Coordinators' Group on Free Movement of Persons

### I. FREE MOVEMENT OF PERSONS

1. The European Council in Madrid in June 1989 adopted the Palma document that had been drawn up by the Coordinators' Group.

2. Since then, the Coordinators' Group has regularly reported to the European Council on the state of progress with the measures envisaged

in the Palma document.

3. In the Palma document and in the subsequent reports the Coordinators' Group has emphasized its opinion that the creation of an area without Internal frontiers, in accordance with Article 8A - on which different legal interpretations still persist - requires the application of certain essential measures enabling joint organization and reinforcement of checks at external frontiers and co-operation in other fields.

4. In its last report the Coordinators' Group drew particular attention to the importance of three main instruments :

- the draft Convention on the crossing of external frontiers
- the Dublin Convention on the determination of the State responsible for examining an asylum application lodged in one of the States
- an instrument setting up a European Information system (EIS).

5. The Coordinators' Group has now carried out a detailed review of the progress made on the measures set out in the Palma document. Progress continues to be made in connection with many of these measures, for example through the development of Europol, the implementation of decisions on the exchange of liaison officers, the development of the customs information system, and of the customs external frontier enforcement strategy, and actions in the Community area (e.g. abolition of fiscal frontiers, firearms control and plant health protection measures), although only partial implementation has been achieved in many of them. The position on the three main instruments is as follows.

#### (a) Draft Convention on the crossing of external frontiers

Many of the measures in the Palma document depend on the signature, ratification and implementation of this Convention.

The Member States concerned in the last remaining problem that prevents the Convention from being opened for signature have continued discussions but the problem remains unresolved.

In the meantime, and in accordance with the request of the European Council in Luxembourg work has continued on the detailed measures that would be required to implement the Convention. The Immigration Ministers have already approved a number of such measures.

#### (b) European Information System (EIS)

The Member States have agreed that the implementation of the Convention on External Frontiers requires a separate instrument on the creation, organization and operation of a computerized information system, and that such an instrument must contain provisions for data protection and judicial and police co-operation. The European Council in Maastricht requested the Coordinators' Group to examine the structure of a European Information System (EIS), examining first the possibility of extending to all Member States the arrangements already concluded by some of them. The Coordinators' Group examined the prospects for basing an EIS on certain provisions of the Convention applying the Schengen Agreement. The European Council in Lisbon requested that the work on drafting such an instrument be conducted so as to allow the instrument to be signed during the second half of 1992, if possible.

The draft text of an instrument based on relevant provisions of the Schengen Convention has been tabled during the present Presidency and several discussions have been held in the specialist Horizontal Group that has been established by the Coordinators' Group to deal with the EIS. However, the work has not yet reached the stage when the text can be opened for signature.

#### (c) Dublin Convention

Four Member States have now ratified the Dublin Convention. Detailed work on implementation measures is being taken forward.

6. To sum up, no further work is required on the substantive provisions of the External Frontiers convention that are not related to the last remaining problem, and the text of the Dublin Convention is, of course,

concluded. Preparatory implementation work is being taken forward on both instruments, this will need to continue up to and beyond ratification. The third main instrument, on the EIS, is at an earlier stage of evolution, since the substantive text, that has been prepared following the request of the European Council in Lisbon, is still under discussion.

7. The Coordinators can report that substantial progress has been made in a range of the measures envisaged in the Palma document. They note, however, that a number of outstanding issues remain and that the signature, ratification and implementation of the three main instruments described above will inevitably extend beyond the end of 1992.

At this stage it is clear that it will not be possible to remove internal frontier controls completely on 1.1.1993.

## II. WORK STRUCTURES FOR TITLE VI OF THE TREATY ON EUROPEAN UNION

8. In accordance with the request of the European Council in Lisbon, the Coordinators' Group has continued its deliberations on the organization of work structures for the implementation of Title VI of the Treaty on European Union. The Group is confident that its preliminary conclusions (set out in attached note) will provide a sound general basis for the commencement of work under Title VI, though the final arrangements for work programmes and structures will naturally have to be considered by the Council on the advice of the Article K4 Committee in the light of the requirements of the work at the time. Subject to the European Council's approval of the Group's present recommendations, there are certain practical arrangements (e.g. communications) on which further preparatory work can usefully be done before the Title VI arrangements take effect. The Group may also need to review its recommendations for the handling of drugs issues in Title VI in the light of the European Council's decisions on the future of CELAD.

## III. FUTURE ROLE OF THE COORDINATORS' GROUP

9. Important work will be required beyond 1 January 1993 on the implementation of the Palma programme. The Coordinators' Group believe that there will continue to be a need for them both to co-ordinate that work and to provide a source of advice to the European Council on Title VI matters until the establishment of the Article K4 Committee.

## IV. RECOMMENDATIONS

10. The Coordinators' Group suggest that the European Council in Edinburgh may wish to adopt the following conclusions

"The European Council underlines the importance of free movement of persons in the Community and welcomes the progress which has been made towards achieving it, but notes with regret that many of the essential measures envisaged in the Palma document will not be implemented by 1 January 1993. At this stage it is clear that it will not be possible to remove internal frontier controls completely on 1.1.1993.

The European Council calls on the Member States concerned with the last remaining problem with the External Frontiers Convention to make every effort to resolve that problem, so that the Convention, which is an essential measure for the common regulation of the community's external borders, can come into effect at an early date.

The European Council also urges all Member States to step up their efforts to conclude an instrument on the European Information System as soon as possible, since this measure is also an essential complement to the External Frontiers Convention.

The European Council urges all Member States that have not ratified the Dublin Convention to do so as soon as possible.

The European Council requests the Coordinators' group on the Free Movement of Persons to ensure that all outstanding preparatory work relating to the implementation of the External Frontiers Convention and Dublin Convention and other essential measures is taken forward urgently.

European Council notes with approval the work of the Coordinators'

Group on the work structure for Title VI of the Treaty on European Union and requests the Group to ensure that detailed plans are taken forward for the development of communication systems for work within Title VI and any further points on which planning is needed to prepare for the implementation of Title VI."

## **ANNEX**

### **WORK STRUCTURES FOR TITLE VI OF THE TREATY ON EUROPEAN UNION**

Note by the Coordinators' Group on Free Movement of Persons

#### I. INTRODUCTION

1. This report, prepared at the request of the European Council in Lisbon, takes as its starting point the Coordinators' Group's report to the Personal Representatives (CIRC 3624/2/92) which was approved under the Portuguese Presidency. In that first report the Group reviewed relations between COREPER and the K.4 Committee, the role and organisation of the K.4 Committee and in broad outline, the structure subordinate to the K.4 Committee.

The Coordinators recognize that the K4 Committee will need to consider the working structures when the Treaty on European Union enters into force and the Group will wish to keep the matter under review in the meantime. They also recognize that the structures proposed below are of a provisional nature and will require review in the light of experience after approximately 18 months.

2. In view of the very wide range of subjects covered in Title VI, the Group concluded in its first report [ subject to two scrutiny reservations ] that the work under the aegis of the K.4 Committee should be organised into three sectors

- immigration and asylum
- security and law enforcement, and police and Customs cooperation
- judicial cooperation.

The Group further concluded that for each sector there should be a steering group which would propose to the K.4 Committee a work programme/timetable each year, which would be reviewed six months thereafter. The working parties needed to process the anticipated work, and their appropriate terms of references would be automatically reviewed together with the work programme, and adjustments would be made as necessary.

3. The present report concentrates on the arrangements beneath the proposed steering groups, on internal communications and on arrangements for contact with third countries.

#### II. WORKING METHODS OF THE PRESENT REVIEW

4. Since the Coordinators' Group took the view that the central principle should be that structures should be moulded to fit the work programme, it was necessary for them to obtain a realistic idea of the work programme that would actually be required during 1993. The senior group currently operating in each sector (TREVI, Immigration, CELAD, MAG 92, Judicial Co-operation) was therefore asked to provide the Coordinators' Group with its best estimate of the likely work programme, together with comments on a number of specific questions. These work programmes were provided as a tool to assist the Coordinators' Group to consider the Title VI infrastructure and the Presidencies during 1993 are naturally not bound by them.

#### III. GENERAL PRINCIPLES

5. In addition to the broad operating structure described in its first report to Personal Representatives, the Coordinators Group believes that

working arrangements under Title VI should strive to meet the following general principles, wherever possible:

- Where matters can be effectively dealt with by an exchange of information, not requiring negotiation, this should normally be channelled through the General Secretariat of the Council. Work should thus be handled in as flexible a way as possible and formal meetings would be kept to the level most compatible with the efficient conduct of business.

- Not only should the present opportunity be taken for a radical scrutiny of operating structures, but future working arrangements should constantly be kept under review with the aim of further streamlining on the other hand, structures that have worked well in practice should not be abandoned without good reason.

- At all stages care should be taken to ensure that the role and functions of the steering groups are clearly defined and do not merely replicate those of the K.4 Committee, and that working groups also have clear and well targeted tasks to perform.

- Work should always be handled in ways that are as flexible as possible, and which make use of expertise from within other sectors of Title VI whenever that is of real benefit. Such a "horizontal" input by experts from another sector might be ad hoc for a particular item, or on a more continuing basis.

- The confidential handling arrangements for sensitive security information should command the confidence of the users.

#### IV. PROPOSED WORKING STRUCTURES

6. The following outline structure for each of the three sectors is not intended to be rigidly prescriptive. Thus, the Coordinators' Group has not, for example, attempted to allocate a precise distribution of topics to each proposed working group, nor to suggest the frequency with which the steering groups might consider individual topics. In the Group's view, the essential thing at this stage is to get, for planning purposes, a good general view of the number and type of working groups that will be necessary. The fine tuning of the arrangements can be done nearer the time of implementation.

7. There will be some subjects in which two or more of the sectors have a continuing heavy interest, so that there will be a question of how such truly horizontal issues fit into the system. The Coordinators' take the view that as a general rule, each working group should be under the aegis of a particular steering group. The steering groups for other sectors may have a considerable interest in the working group. In such circumstances, the Coordinators consider that the K.4 Committee will ensure that communication takes place between the steering groups, with the secretariat fully involved. In addition it should be a particular task of the K.4 Committee to ensure horizontal working practices, and it would be for the K.4 Committee to resolve any problems between the sectors that might arise in practice.

As far as co-operation between police and customs services are concerned, the task will be primarily undertaken by the steering committee responsible.

8. Subject to the above points, the Coordinators envisage the following work structure

##### (a) Immigration and asylum

In the immigration sector, there will be a clear need for working groups on asylum and on immigration policy. Two further working groups will be required on the control of external frontiers and on visas, though the possibility of combining these groups should be considered in the light of progress with the implementation of the External Frontiers convention and of the operation of Article 100C of the European Union Treaty.

The work of the steering group and of the working groups on this sector would be supported by the clearing house for asylum and, if approved by Immigration Ministers, the clearing house for immigration, and these clearing houses should work together as closely as possible.

##### (b) Security and law enforcement and police and customs cooperation

The composition and working methods of the steering group in this sector should reflect the broad areas to be covered.

Particular importance should be given to horizontal work, including the putting into place of a framework for co-operation between the Member States, in accordance with the provisions of the Treaty on European union.

A distinct working group will be required on counter-terrorism. Participation in this group and access to the group's documents should be restricted to the agencies directly involved. This will necessitate a secure communication network.

A working group will be required on public order, training and scientific and technical work, a small amount of which will also require secure communications.

A working group will probably be required on combatting serious crime. The work of this group is closely related to work in the judicial co-operation sector. A close working relationship between experts in these areas will be needed. This working group would take into account any proposals from the Ad Hoc Group on International organized Crime set up by Ministers at their meeting on 18 September 1992 and which has been asked to report within 6 months.

Europol requires a separate working group.

The Coordinators considered whether, in addition to the general participation of customs services in the work of this sector, there were sufficient specialist customs issues (e.g. Customs Information System, Naples Convention) to require the continued existence of a separate working group. The Coordinators concluded that such a working group should be maintained.

As regards drugs issues within Title VI, the Coordinators had the benefit of advice from CELAD that drugs matters within Article K would best be handled within the security law enforcement, etc. sector.

The Coordinators agree with CELAD on that point, and accordingly propose that there should in any event be a working group on drugs issues within Article K under the direction of the steering group for this sector. The precise scope and terms of reference of the working group will depend partly on further consideration of the implications of Article K.1.4.

##### (c) Judicial co-operation

The Coordinators confirm their previous view that the importance of this area within Title VI requires that it should be treated as a distinct sector, with its own senior steering group. The Coordinators were struck, however, by the great degree of separation between Judicial co-operation on civil and criminal matters, which reflects the administrative arrangements in many Member States. The Coordinators are concerned that there should not be a senior steering group that simply joins the products of two working groups (civil and criminal) without giving added value and co-ordination. The Coordinators believe that when the Union Treaty comes into effect the first task of the steering group in this sector should be to review the organisation and to produce, within six months, proposals that address this issue.

##### (d) Horizontal issues

There is at present one matter the European Information System, that the Coordinators have found to require a special group, reporting direct to the Coordinators, because no distinct sectoral area can appropriately take the lead.

The need for this working group will continue for the time being. Further issues requiring such arrangements may be identified in future.

##### (e) International fraud

The Coordinators' Group notes that Article K.1 (5) of the Union Treaty

specifically mentions as a matter of common interest "combatting fraud on an international scale insofar as this is not covered by [K.1] (7) to (9)." The work structures that are eventually set up will need to be organised so as to cover this subject, and the work will involve an input by police, customs and judicial co-operation interests.

#### Communications and security

9. The Coordinators particularly enquired into the security needs of the various sectors, in view of the great importance of preserving the confidence of users. In the light of the advice from TREVI and the other expert groups it is clear that the need for special security is overwhelmingly concentrated in the counter-terrorism area, though there is also a similar requirement for a small amount of information to do with certain technical police and security questions. Security vetting and handling procedures will therefore need to be extended to the very small number of Commission and Secretariat staff who would need to be involved with this material.

10. In the field of police co-operation there is a good deal of day-to-day exchange of sensitive information between individual Member States. This requires a secure communications network. On the advice of TREVI, the existing TREVI encrypted fax system provides the obvious way of dealing with this material and with other similar exchanges of operational information. As for the bulk of TREVI material, and for the material for the other sectors, the Coordinators are in no doubt that a new system needs to be set up to serve the needs of Title VI on a common basis. This will require a degree of confidentiality to allow for the circulation of papers with a security classification. The extent to which it would be useful to use such a system for the circulation of non-TREVI material will need to be assessed. A specification for this needs to be prepared urgently, and costings obtained.

#### Executive committees established by Conventions

11. The Dublin Convention establishes an Executive Committee and it is envisaged that the External Frontiers Convention will do the same. These Committees, and any future ones that may be established by similar Conventions, may need to operate at a Ministerial level, and the Coordinators gave some thought to the way in which that function might be discharged once a Council of Ministers was established under the Treaty on European Union. Although the Council of Ministers could not discharge the Executive Committee function in its character of Council, there should be no practical difficulty in reconvening the appropriate Ministers in Executive Committee guise, and in scheduling meetings to assist this.

#### Contacts with third countries

12. A number of third countries currently enjoy special briefing arrangements with TREVI, centred on the six-monthly Ministerial meetings. Different arrangements for contact with third countries exist within customs co-operation, and in the other sectors there are less routine arrangements for third country contact. The Coordinators recommend that these arrangements should be rationalised on an agreed basis that reflects the needs of Title VI as a whole. As a matter of principle, contact with third countries should be conducted by the Presidency.

13. The particular case of the Dublin Group will need to be examined further in the light of decisions on the future activities of CELAD.

# 4

## Form of agreement on the European Information System

### Introduction

This report prepared by the Portuguese Presidency deals with the "instrument" to be used to effect the European Information System (EIS). The discussion indicates a debate on its relationship with the Schengen countries who, having adopted the Schengen Agreement in 1990, were working on the Schengen Information System (SIS) in Strasbourg.

### Form of agreement on the European Information System

Reference:

29 June 1992  
CIRC 3650/92  
CONFIDENTIAL

Subject: Form of agreement on the European Information System  
- Note by the Presidency

#### PART I

1. The creation of a European Information System is universally accepted as one of the most important of the measures that have been identified as being essential in the context of the implementation of Article 8A of the Treaty of Rome. Not only would the system be the vehicle for carrying the computerised list of non-admissible persons prescribed in Article 10 and 13 of the draft External Frontiers Convention, but it must be supposed that the instrument creating the system would represent the further agreement containing measures on data protection that is stipulated in Article 13 of the External Frontiers Convention. The European Information System is thus a fundamental concomitant of the External Frontiers Convention, as well as representing a further stage of police co-operation and judicial co-operation.

2. The Maastricht European Council requested the Coordinators to examine what the structure of the European Information System should be and to take care that the technical and legal provisions - including the protection of personal privacy - were being taken to build the system. The Maastricht European Council noted that in view of the need for a speedy conclusion of these activities, it was desirable in the first place to establish whether the arrangements already existing between certain member States might also apply to all the Member States.

3. In pursuance of the Maastricht European Council's mandate, the Horizontal Group isolated a number of major issues and reported on its proceedings to the Coordinators' meeting on 26 and 27 May 1992. At that meeting the Coordinators agreed on the need to set up a single information system based on the Convention applying the Schengen Agreement; that the system should be devised swiftly, taking a pragmatic approach.

The Coordinators' Group also agreed to ask the Horizontal Group to determine which provisions - apart from those in Titles IV and VI - should be included in the instrument to be adopted; consider, in liaison with legal experts, the form of the instrument(s) to be adopted. It was noted that an opinion on this matter was sought from the Council's Legal Service.

4. The Coordinators' report to the Lisbon European Council further

stressed the importance of the European Information System and stated that the instruments to create the system was one of the three principal instruments of which the essential character had been consistently emphasised by the Group since the time of the Palma Document. (The other two instruments that the Coordinators noted in this context were the External Frontiers Convention itself and the Dublin Convention.)

5. In approving the recommendations submitted by the Coordinators, the Lisbon European Council particularly emphasised that the work on drafting an instrument setting up a European information System should be conducted in such a way as to allow the instrument to be signed during the second half of 1992, if possible.

## PART II

6. It is clear that the problems confronting the Horizontal Group in taking forward the Lisbon European Council's demanding mandate are all rooted in the relationship between the Information System enshrined in the Schengen Convention (which is currently in the process of ratification in various member States) and the proposed European Information System. The Presidency believes that the Horizontal Group is the correct forum for taking forward the initial examination of these issues including, for example, the locus and relationship of the institutions set up by the Schengen Convention vis a vis the institutions established by related agreements among the Twelve. The Presidency also believes, however, that there are certain over-arching issues on which the Horizontal Group are entitled to have the Coordinators' guidance, if they are to make progress on the timetable that has been mandated by the European Council.

7. It appears to the Presidency that the juridical form of the instrument to be developed by the Horizontal Group is one such over-arching issue. It will, in fact, be impossible for the Horizontal Group to make progress with the development of a text until a working agreement is established on the essential features of the juridical character of the instrument. Unless a very early agreement can be reached on the assumptions that the Horizontal Group should make on this issue, it appears to the Presidency that the prospect of reporting substantial progress to the Edinburgh European Council will be very gravely damaged.

8. The Presidency believes, therefore, that it is appropriate for the Coordinators' Group to offer further guidance forthwith to the Horizontal Group on the question of the juridical form of the instruments to be adopted, to enable the Horizontal Group to proceed to more detailed work with the minimum delay.

## PART III

9. As to the forms of instrument that might be contemplated, there are essentially no more than two variants:

A) An agreement (presumably a Convention) between all Twelve Member States, signed individually by them

or

B) An agreement (or agreements) between, on the one hand, those Member States which subscribe to the Schengen Convention and, on the other hand, those Member States that do not so subscribe.

10. In the opinion of the Presidency the proper form for an agreement of this character is that described in alternative A above, that is, a free-standing Convention between the Twelve Member States, signed individually by them. The Presidency believes that this is the model for future modalities envisaged Article K.3.2.(c) of the European Union Treaty.

11. The Presidency also believes that the proper precedent for mode of agreement among the Twelve on topics that have been first dealt with in the Schengen Convention has already been set by the Dublin Convention and by the draft External Frontiers Convention (ie the two other principal measures whose importance the Coordinators stressed in their report to the European Council).

12. The Presidency therefore proposes that the Coordinators should offer

guidance to the Horizontal Group that, for the purpose of taking forward their work, they should assume that the instrument required to establish a European Information System should be an agreement between all Twelve Member States, signed individually by them, on the broad lines of the Dublin Convention and the draft External Frontiers Convention.

# 5

## Selected extracts from the Conclusions of the Presidency of 29 October 1993, European Council, Brussels. Chapter V: The area of justice and home affairs

### Commentary

The next three documents (nos 5, 6 and 7), taken together with those in Chapter 5 on the Schengen Agreement, give an overview of the situation in the European Union immediately prior to the implementation of the Maastricht Treaty on 1 November 1993.

The reports, documents and Conventions covered cannot be viewed simply as historical decisions because as the "Trevi acquis" and the "Schengen acquis" spell out, they form part of present and future policies and practices.

The first (Document no 5) sets out the views of the EU governments, the second (Document 6) contains the relevant sections from the Maastricht Treaty (Title VI, Article K), and the third (Document 7) is the "Trevi acquis" the accumulated and ongoing set of policies, practices, and Conventions (Council of Europe and international) to which all EU member states are expected to abide by.

### Introduction

There are many comments which could be made on this "Declaration" and many commentaries have been published on the post-Maastricht arrangements. But one area covered by the document requires noting. The "Declaration" includes the following statement on the new Maastricht Treaty:

"It stipulates that the European Parliament will be regularly informed of discussions by the Presidency and the Commission and consulted by the Presidency on the principal aspects of activities. This new role for the European Parliament, which it has sought for many years, is in response to the concern to rectify the democratic deficit with which existing forms of intergovernmental co-operation have often been reproached. It also answers a concern for greater transparency in the decision-making process.[...]"

The experience between November 1993 and early 1997 was that the European Parliament was rarely informed of the work of the Council of Justice and Home Affairs Ministers. Nor was it "consulted" on "principal aspects of activities" - it was not even "consulted" on the draft Europol Convention.

# Selected extracts from the Conclusions of the Presidency of 29 October 1993, European Council, Brussels: Chapter V: The area of justice and home affairs

## I. Introduction

The Treaty on European Union contains - for the first time in the history of European integration - provisions which define the framework for systematic cooperation between the Member States in the fields of justice and Home Affairs.[...]

Henceforth, co-operation will form part of the single institutional system of the Union. The very introduction of this system will improve the effectiveness of co-operation, increase the transparency of the decision-making machinery and facilitate the democratic control of activities.

The co-operation will be based on what has hitherto been achieved under the major work programmes such as the Palma Report (1989), the TREVI action programme (1990), the European Plan to Combat Drugs (1990) and the programmes concerning asylum and immigration (Maastricht, 1991).

## II. The contributions of the Treaty on European Union

(a) [...]

### (b) Rationalization of structures and co-ordination

By virtue of institutional unity, all activity will take place within the Council, which will be the only decision-making body. Coreper will have the responsibility for preparing its meetings and, in accordance with the Council decision of 11 May 1992, it will endeavour, if need be, to reach an agreement at its level to be submitted to the Council for adoption. The new Committee set up by Article K.4 will also help prepare those meetings. This Committee will in addition have the task of co-ordinating all the work under Title VI. These questions will be examined in further detail in the note annexed hereto. Assistance from the General Secretariat of the Council as a matter of routine is also an important aspect of the new framework for action.[...]

### (c) Strengthening the role of the Union's institutions and synergy of policies

The Treaty defines the relations between the Institutions for the implementation of Title VI. It stipulates that the European Parliament will be regularly informed of discussions by the Presidency and the Commission and consulted by the Presidency on the principal aspects of activities. This new role for the European Parliament, which it has sought for many years, is in response to the concern to rectify the democratic deficit with which existing forms of intergovernmental co-operation have often been reproached. It also answers a concern for greater transparency in the decision-making process.[...]

## ANNEX 1

Implementation of the provisions on co-operation in the fields of Justice and Home Affairs

1. At its meeting in Maastricht, the European Council instructed the appropriate Council bodies and the Co-ordinators' Group on Free Movement of Persons to examine in conjunction with the Commission the consequences which the draft Treaty on European Union would have for the organization of work in the fields of justice and Home Affairs, the aim being to enable the relevant provisions of the future Treaty to be applied effectively as soon as it came into force.

In response to this instruction, the Co-ordinators' Group sent the European Council two reports: one at its Lisbon meeting, the other at its Edinburgh meeting.

These reports dealt mainly with the relationship between Coreper and the Co-ordinating Committee (known as the "K4 Committee"), the role and organization of the K.4 Committee and the organization of the structures which are subordinate to it.

The reports are based on a number of general principles, such as:

- the need to create a rational structure that best serves the Council, avoiding duplication of work but preserving the advantages that currently flow from the specific nature of the various bodies;
- the design of structures having regard to the work programmes concerned, and consequently the principle of the *ad hoc* nature of working parties;
- the ongoing review of working methods to achieve greater rationalization;
- the need to define clearly the role and the tasks of the steering groups - which should not simply replicate those of the K.4 Committee - and of the working parties;
- making use of the Council General Secretariat - rather than a working party - for matters that can be dealt with effectively by an exchange of information;
- calling on experts from other Title VI sectors whenever this can be of real benefit (the multidisciplinary approach);
- the confidentiality of sensitive information.

2. The K.4 Committee will have an essential function to fulfil: in addition to its general role in co-ordinating the various bodies subordinate to it, the Committee will endeavour, when preparing for the Council, to resolve as far as possible the substantive problems raised by the various dossiers before the dossiers are sent to Coreper (within its terms of reference under Article 151 of the Treaty) and then to the Council without prejudice to the foregoing, it also has the task of formulating options for the Council, either at the Council's request or on its own initiative.

3. The work conducted under the aegis of the K.4 Committee should be organized into three sectors, as follows:

- immigration and asylum (Article K. 1(1), (2) and (3) and Article 100c)
- security and law enforcement and police and customs co-operation (Article K.1 (4), (5), (8) and M)
- judicial co-operation (Article K.1(6) and M)

and for each of these sectors a steering group should be set up consisting of officials of a sufficient level of responsibility. It will be responsible in particular for proposing each year to the K.4 Committee a programme/timetable of work to be reviewed after six months.

4. With the concern to rationalize, the Co-ordinators' Group suggests the creation of a number of working parties, the terms of reference of which would be endorsed by the K.4 Committee, and between which collaboration would have to be introduced, if need be.

5 & 6 [...]

### 7. Relations with the European Parliament

Article K.6 defines the relations between the Institutions in this area by laying down specific mechanisms. Four main aspects may be identified:

1. Regular information on discussions. Responsibility for providing such information lies with both the Presidency and the Commission.

2. Consultation of the European Parliament on the principal aspects of activities. Except as regards the aspects of the visa policy referred to in Article 100c, it therefore differs from the ordinary consultation procedure used in certain areas of Community jurisdiction.

The Presidency has to consult the Parliament on the principal aspects of activities and to ensure that the Parliament's views are duly taken into consideration.

3. The European Parliament may also ask questions of the Council or make recommendations to it.

4. Each year, the European Parliament will hold a debate on progress made, with the President of the Council and a Member of the Commission taking part.

The European Parliament has already set up a specialized Committee on "Civil Liberties and Internal Affairs" - with a view to implementation of the new Treaty.

5, 6 & 7 [...]

8. *Financing of the areas of Justice and Home Affairs*

Article K.8 provides that the administrative expenditure relating to this area will be charged to be budget of the European Communities.

For operational expenditure there are two possibilities. The Council may decide unanimously that it should be charged to the budget of the European Communities, in which case the usual budgetary procedure will apply. Or it may determine that such expenditure is to be charged to the Member States, where appropriate in accordance with a scale to be decided.[...]

# 6

## TITLE VI of the Maastricht Treaty: Cooperation in the fields of Justice and Home Affairs

Reference: Treaty on European Union, 1992

### TITLE VI

#### PROVISIONS ON COOPERATION IN THE FIELDS OF JUSTICE AND HOME AFFAIRS

##### Article K

Cooperation in the fields of justice and home affairs shall be governed by the following provisions.

##### Article K.1

For the purposes of achieving the objectives of the Union, in particular the free movement of persons, and without prejudice to the powers of the European Community, Member States shall regard the following areas as matters of common interest:

- (1) asylum policy;
- (2) rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereon;
- (3) immigration policy and policy regarding nationals of third countries:
  - (a) conditions of entry and movement by nationals of third countries on the territory of Member States;
  - (b) conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment;
  - (c) combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States;
- (4) combating drug addiction in so far as this is not covered by (7) to (9);
- (5) combating fraud on an international scale in so far as this is not covered by (7) to (9);
- (6) judicial cooperation in civil matters;
- (7) judicial cooperation in criminal matters;

(8) customs cooperation;

(9) police cooperation for the purposes of preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (Europol).

##### Article K.2

1. The matters referred to in Article K.1 shall be dealt with in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Convention relating to the Status of Refugees of 28 July 1951 and having regard to the protection afforded by Member States to persons persecuted on political grounds.

2. This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

##### Article K.3

1. In the areas referred to in Article K.1, Member States shall inform and consult one another within the Council with a view to coordinating their action. To that end, they shall establish collaboration between the relevant departments of their administrations.

2. The Council may:

- on the initiative of any Member State or of the Commission, in the areas referred to in Article K.1(1) to (6);

- on the initiative of any Member State, in the areas referred to in Article K.1(7) to (9):

(a) adopt joint positions and promote, using the appropriate form and procedures, any cooperation contributing to the pursuit of the objectives of the Union;

(b) adopt joint action in so far as the objectives of the Union can be attained better by joint action than by the Member States acting individually on account of the scale or effects of the action envisaged; it may decide that measures implementing joint action are to be adopted by a qualified majority;

(c) without prejudice to Article 220 of the Treaty establishing the European Community, draw up conventions which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Unless otherwise provided by such conventions, measures implementing them shall be adopted within the Council by a majority of two-thirds of the High Contracting Parties.

Such conventions may stipulate that the Court of Justice shall have jurisdiction to interpret their provisions and to rule on any disputes regarding their application, in accordance with such arrangements as they may lay down.

##### Article K.4

1. A Coordinating Committee shall be set up consisting of senior officials. In addition to its coordinating role, it shall be the task of the Committee to:

- give opinions for the attention of the Council, either at the Council's request or on its own initiative;

- contribute, without prejudice to Article 151 of the Treaty establishing the European Community, to the preparation of the Council's discussions in the areas referred to in Article K.1 and, in accordance with the conditions laid down in Article 100d of the Treaty establishing the European Community, in the areas referred to in Article 100c of that Treaty.

2. The Commission shall be fully associated with the work in the areas referred to in this Title.

3. The Council shall act unanimously, except on matters of procedure and in cases where Article K.3 expressly provides for other voting rules.

Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 148(2) of the Treaty establishing the European Community, and for their adoption, acts of the Council shall require at least 54 votes in favour, cast by at least eight members.

#### Article K.5

Within international organizations and at international conferences in which they take part, Member States shall defend the common positions adopted under the provisions of this Title.

#### Article K.6

The Presidency and the Commission shall regularly inform the European Parliament of discussions in the areas covered by this Title.

The Presidency shall consult the European Parliament on the principal aspects of activities in the areas referred to in this Title and shall ensure that the views of the European Parliament are duly taken into consideration.

The European Parliament may ask questions of the Council or make recommendations to it. Each year, it shall hold a debate on the progress made in implementation of the areas referred to in this Title.

#### Article K.7

The provisions of this Title shall not prevent the establishment or development of closer cooperation between two or more Member States in so far as such cooperation does not conflict with, or impede, that provided for in this Title.

#### Article K.8

1. The provisions referred to in Articles 137, 138, 139 to 142, 146, 147, 150 to 153, 157 to 163 and 217 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this Title.

2. Administrative expenditure which the provisions relating to the areas referred to in this Title entail for the institutions shall be charged to the budget of the European Communities.

The Council may also:

- either decide unanimously that operational expenditure to which the implementation of those provisions gives rise is to be charged to the budget of the European Communities; in that event, the budgetary procedure laid down in the Treaty establishing the European Community shall be applicable;

- or determine that such expenditure shall be charged to the Member States, where appropriate in accordance with a scale to be decided.

#### Article K.9

The Council, acting unanimously on the initiative of the Commission or a Member State, may decide to apply Article 100c of the Treaty establishing the European Community to action in areas referred to in Article K.I(I) to (6), and at the same time determine the relevant voting conditions relating to it. It shall recommend the Member States to adopt that decision in accordance with their respective constitutional requirements.

The Treaty also contained the following relevant points:

#### AMENDMENT to the Treaty

The following Article shall be inserted:

#### "Article 100c

1. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall determine the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States.

2. However, in the event of an emergency situation in a third country posing a threat of a sudden inflow of nationals from that country into the Community, the Council, acting by a qualified majority on a recommendation from the Commission, may introduce, for a period not exceeding six months, a visa requirement for nationals from the country in question. The visa requirement established under this paragraph may be extended in accordance with the procedure referred to in paragraph 1.

3. From 1 January 1996, the Council shall adopt the decisions referred to in paragraph 1 by a qualified majority. The Council shall, before that date, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, adopt measures relating to a uniform format for visas.

4. In the areas referred to in this Article, the Commission shall examine any request made by a Member State that it submit a proposal to the Council.

5. This Article shall be without prejudice to the exercise of the responsibilities incumbent upon the Member States with regard to the maintenance of law and order and the safeguarding of internal security.

6. This Article shall apply to other areas if so decided pursuant to Article K.9 of the provisions of the Treaty on European Union which relate to cooperation in the fields of justice and home affairs, subject to the voting conditions determined at the same time.

7. The provisions of the conventions in force between the Member States governing areas covered by this Article shall remain in force until their content has been replaced by directives or measures adopted pursuant to this Article."

#### DECLARATION ON ASYLUM

1. The Conference agrees that, in the context of the proceedings provided for in Articles K.1 and K.3 of the provisions on cooperation in the fields of justice and home affairs, the Council will consider as a matter of priority questions concerning Member States' asylum policies, with the aim of adopting, by the beginning of 1993, common action to harmonize aspects of them, in the light of the work programme and timetable contained in the report on asylum drawn up at the request of the European Council meeting in Luxembourg on 28 and 29 June 1991.

2. In this connection, the Council will also consider, by the end of 1993, on the basis of a report, the possibility of applying Article K.9 to such matters.

#### DECLARATION ON POLICE COOPERATION

The Conference confirms the agreement of the Member States on the objectives underlying the German delegation's proposals at the European Council meeting in Luxembourg on 28 and 29 June 1991.

For the present, the Member States agree to examine as a matter of priority the drafts submitted to them, on the basis of the work programme and timetable agreed upon in the report drawn up at the request of the Luxembourg European Council, and they are willing to envisage the adoption of practical measures in areas such as those suggested by the German delegation, relating to the following functions in the exchange of information and experience:

- support for national criminal investigation and security authorities, in particular in the coordination of investigations and search operations;

- creation of databases;

- central analysis and assessment of information in order to take stock of the situation and identify investigative approaches;

- collection and analysis of national prevention programmes for forwarding to Member States and for drawing up Europe-wide prevention strategies;

- measures relating to further training, research, forensic matters and criminal records departments.

Member States agree to consider on the basis of a report, during 1994 at the latest, whether the scope of such cooperation should be extended.

# 7

## The “Trevi acquis”

### Introduction

The “acquis” covering justice and home affairs drawn up for the accession to the EU by Sweden, Finland and Austria provides a basis for understanding the agreements reached under in the pre-Maastricht period.

The final version sent by the K4 Committee on 2 November 1993 (just one day after it officially came into existence) to the Permanent Representatives Committee was incorporated in the *Treaty concerning the accession* of these three states signed on 24 June 1994 and entered into force on 1 January 1995 (Cm 2887, HMSO, June 1995). The Treaty itself only covers, in Article 3, the opening statements listed immediately below in *italics* (points a - d). The actual details of the “acquis” are in the ANNEX included here in full.

No details on Part "III Police cooperation" are given. However, another document - *Overview of the Acquis of the Trevi Agreement* - prepared by the Belgian Presidency of the EU and adopted by the Council of Ministers on 21 October 1993 lists 31 decisions on police cooperation to be incorporated into the "acquis of the Twelve". This list is given in document no 8.

Entitled “draft” it was the list agreed. The “acquis” was incorporated into the *acquis communautaire* when the Maastricht Treaty came into effect.

### The "Trevi acquis"

Reference:

2 November 1993  
9568/93  
CONFIDENTIAL  
CK4 2

REPORT

from: K.4 Committee  
dated: 3 November 1993

to Permanent Representatives Committee

Subject: Draft list on the "acquis" of the Union and of its Member States in the fields of Justice and Home Affairs (situation as at 1 July 1993)

1. At the Ministerial Meetings opening the Accession Conferences, the

statement by the President of the Council contained the following text concerning justice and home affairs (1):

"With regard to Justice and Home Affairs, accession to the European Union will entail that your Countries:

(a) *accept in full on accession the Title VI provisions of the Treaty on European Union and the working practices designed to give them effect;*

(b) *in respect of those conventions or instruments in the field of justice and home affairs which are inseparable from the attainment of the objectives of the Treaty on European Union:*

(i) *undertake to accede to those which have been opened for signature by the Member States by the date of the applicant State's accession to the Union;*

(ii) *accept, in relation to those still under negotiation, the points which have been agreed on by the Twelve or by the Council at the date of your accession to the Union, participating in subsequent negotiations only on those points still to be resolved;*

(c) *accept on accession the resolutions and decisions adopted by the Twelve or by the Council in the field of justice and affairs, including the creation of Europol;*

(d) *introduce administrative and other arrangements, such as those already adopted by the Twelve or by the Council, to facilitate practical co-operation between Member States' institutions working in the field of justice and home affairs."*

2. The Permanent Representatives Committee will find attached the draft "acquis" as established by the Committee set up under Article K.4 of the Treaty on European Union.

The purpose of this list is to identify the Conventions and other acts to be taken into consideration, in the light of the principles defined in the preceding statement, in the fields of justice and home affairs.

ANNEX

#### **I. Conventions forming part of the "acquis communautaire" or the "acquis" of the Union to which applicant States must accede**

States applying to become members of the European Union will be required to accede to Conventions based on Article 220, or related acts, and to Conventions and other instruments covered by Title VI of the TEU, as part of the 'acquis communautaire' or the "acquis" of the Union.

##### 1. Conventions based on Article 220 of the EEC Treaty, or related acts

- Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters (Brussels, 27 September 1968)

- Protocol on Interpretation by the Court of Justice (Luxembourg, 3 June 1971)

- Convention on the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland (Brussels, 9 October 1978)

- Convention on the Accession of the Hellenic Republic (Brussels, 25 October 1982)

- Convention on the Accession of the Kingdom of Spain and the Portuguese Republic (San Sebastian, 26 May 1989)

- Convention on the Law applicable to Contractual Obligations (Rome, 19 June 1980)

- 1st Protocol on Interpretation by the Court of Justice (Brussels, 19 December 1988)

- 2nd Protocol (Brussels, 19 December 1988)

- Convention on the Accession of the Hellenic Republic (Luxembourg,

10 April 1984)

- Convention on the Accession of the Kingdom of Spain and the Portuguese Republic (Funchal, 18 May 1992)
- Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters (Lugano, 16 September 1988).

#### 2. Convention between Member States concerning a topic covered by Title VI of the TEU

- Convention between Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands on Assistance between their Customs Administrations ("Naples Convention") (Rome, 7 September 1967)
- Additional Protocol (Rome, 7 September 1967).

#### 3. Convention open for signing and other instruments covered by Title VI of the TEU

- Convention determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the European Communities (Dublin, 15 June 1990) ("Dublin Convention")
- Ministerial Agreement on setting up the Europol Drugs Unit (Copenhagen, 2 June 1993).

#### II. Draft Conventions in the process of being drawn up and coming under Title VI of the TEU

These drafts do not represent an "acquis" in the strict sense. Nevertheless, applicant States may not re-open negotiations on points on which the Member States have already agreed, even if the texts of these draft Conventions have not yet been adopted or opened for signing on the date of their accession to the European Union. At the same time entry into force of the TEU could itself entail certain amendments to these drafts and a new framework for negotiating them. Preparations for implementing some of these draft Conventions have already been made. They are dealt with under "other instruments".

- Draft Convention of the Member States of the European Communities on the crossing of their external frontiers (2).
- Draft Convention between the Member States of the European Economic Community concerning the use of information technology for customs purposes.
- Draft Convention concerning the establishment of a European Information System (3).
- Draft Convention on a European Police Office (EUROPOL)(4).
- Preliminary draft Convention determining the State Responsible for Examining Applications for Asylum ("Parallel Convention to the Dublin Convention").

#### III. Other Conventions to be regarded as indissociable from the achievement of the objectives of the TEU

- European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950) (5)(6).
- European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment Punishment (Strasbourg, 26 November 1987).
- Convention relating to the Status of Refugees (Geneva, 28 July 1951) (1).
- Protocol relating to the Status of Refugees (New York, 31 January 1967).
- Single Convention on Narcotic Drugs (New York, 30 March 1961)
- Protocol amending the Single Convention on Narcotic Drugs (Geneva,

25 March 1972)

- Convention on Psychotropic Substances (Vienna, 21 February 1971)
- Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 20 December 1988) (7).

#### IV. EPC Conventions and Conventions drawn up in other fora relating to areas covered by Title VI of the TEU

The conventions listed below were negotiated under EPC and opened for signing by the Member States or were prepared in other fora but are regarded as instruments affecting co-operation among the Twelve. The situation as regards the signing and ratification of these instruments is summarized in the attached tables. The Member States are not at this stage required to accede to the instruments. They are currently reviewing the reasons why some of these conventions have not been signed or ratified by some Member States.

These instruments are relevant to co-operation among the Twelve and applicant States should endeavour to become party to them in the same way as the Member States.

##### A. EPC Conventions

###### - in criminal matters (8):

- Agreement on the application between the Member States of the European Communities of the Council of Europe Convention on the Transfer of Sentenced Persons (Brussels, 25 May 1987)
  - Convention between the Member States of the European Communities on Double Jeopardy (Brussels, 25 May 1987) (9).
  - Agreement between the Member States of the European Communities on the Simplification and Modernization of Methods of Transmitting Extradition Requests (San Sebastian, 26 May 1989).
  - Convention between the Member States on the Transfer of Proceedings in Criminal Matters (Rome, 6 November 1990).
  - Convention between the Member States of the European Communities on the Enforcement of Foreign Criminal Sentences (Brussels, 13 November 1991).
- ###### - in civil matters:
- Convention abolishing the Legalization of Documents in the Member States of the European Communities (Brussels, 25 May 1987).
  - Convention between the Member States of the European Communities on the Simplification of Procedures for the Recovery of Maintenance Payments (Rome, 6 November 1990).

##### B. Conventions drawn up in other fora relating to areas covered by Title VI of the TEU

###### - in criminal matters:

- European Convention on Extradition (Paris, 13 December 1957).
- Protocol I (Strasbourg, 15 October 1975).
- Protocol II (Strasbourg, 17 March 1978).
- European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 2 April 1959).
- Additional Protocol (Strasbourg, March 1978).
- European Convention on the International Validity of Criminal Judgments (The Hague, 28 May 1970).
- European Convention on the Transfer of Proceedings in Criminal Matters (Strasbourg, 15 May 1972)

- European Convention on the Suppression of Terrorism (Strasbourg, 27 January 1977).

- Convention on the Transfer of Sentenced Persons (Strasbourg, 21 March 1983).

- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 8 November 1990).

- in civil matters:

- Convention on Civil Procedure (The Hague, 1 March 1954).

- Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (The Hague, 15 November 1965).

- Convention on International Access to Justice (The Hague, 25 October 1980).

- Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (The Hague, 18 March 1970).

- Convention on the Civil Aspects of International Child Abuse (The Hague, 25 October 1980).

- European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Luxembourg, 20 May 1980).

- Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Strasbourg, 28 January 1981).

- Convention on the Rights of the Child (New York, 20 November 1989).

## OTHER INSTRUMENTS

### I.

These acts have been drawn up under work programmes approved by the European Councils in Madrid ("Palma document"), (26 and 27 June 1989), Rome (7 December 1990) and Maastricht (9 and 10 December 1991). Applicant States will be in the same situation as the original Member States concerning statements, resolutions or positions adopted by the Member States which relate to Title VI of the TEU; they will consequently comply with the principles and guidelines resulting therefrom and will take any necessary steps to implement them.

#### A. Acts adopted by the Ministers responsible for Immigration

- Decision setting up the CIREA (Centre for Information, Discussion and Exchange on Asylum) (Lisbon, 11 June 1992) [WGI 1107].

- Conclusions concerning countries in which there is generally no serious risk of persecution (London, 30 November to 1 December 1992) [WGI 1281].

- Resolution on a harmonized approach to questions concerning host third countries (London, 30 November to 1 December 1992) [WGI 1283].

- Resolution on manifestly unfounded applications for asylum (London, 30 November to 1 December 1992) [WGI 1282 REV 1].

#### B. Acts to implement the Dublin Convention

These instruments, the principle of which has already been agreed at ministerial level, will be formally adopted by the Committee referred to in Article 18 of the Convention once the latter has entered into force:

- Standard form for determining the State responsible for examining an application for asylum (WGI 938 REV 1) (1).

- implementation of the Convention determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member

States of the European Communities (Lisbon, 11 to 12 June 1992).

- Calculation of the periods referred to in the Dublin Convention (WGI 1039 REV 1).

- Conclusions concerning the transfer of applicants for asylum in accordance with Articles 11 and 13 of the Dublin Convention (London, 30 November to 1 December 1992) (WGI 1269).

- Joint handbook for the application of the Dublin Convention (WGI 1495).

## ADMISSION

Resolution on harmonization of national policies on family reunification (Copenhagen, 1 to 2 June 1993).

(1) Provisional version.

## EXPULSION

- Recommendation concerning Member States' practices regarding removal (London, 30 November to 1 December 1992) [WGI 1266].

- Recommendation concerning transit for the purposes of expulsion (London, 30 November to 1 December 1992) [WGI 1266]. [Editor's note: this is an error; the correct reference is: WGI 1275]

- Recommendation concerning checks on and expulsion of third-country nationals residing or working without authorization (Copenhagen, 1 to 2 June 1993) [WGI 1516].

- Conclusion concerning greater flexibility in application of the provisions on transit for the purposes of expulsion (Copenhagen, 1 to 2 June 1993) [WGI 1310 REV 3].

## EXTERNAL FRONTIERS

### A. Acts adopted by the Ministers responsible for immigration

Setting up the Cirefi (Centre for Information, Research and Exchange on the Crossing of Borders and Immigration) (London, 30 November to 1 December 1992) [WGI 1277].

### B. Acts to implement provisions of the draft Convention on the crossing of external frontiers

The ad hoc Group on Immigration is in the process of drawing up a number of instruments for implementation of provisions in the draft Convention on the crossing of external frontiers. These instruments, the principle of which has already been agreed at ministerial level, will be formally adopted once the Convention has entered into force.

- Refusal of entry: conditions and procedure (WGI 1103).

- Checking on means of subsistence (WGI 1104).

- Controls on persons (WGI 1108).

- Travel documents (WGI 1506 REV 1).

Draft conclusions regarding implementation of the common visa policy provided for in the draft Convention on the crossing of external frontiers (Articles 17 to 25) (WGI 1513) (Note: The degree of agreement on the various conclusions differs considerably at this stage).

- List of countries whose nationals are subject to visa requirements in all the Member States (WGI 1379 REV 2).

- List of residence permits (Articles 8 and 15 of the Convention) (WGI 1454 REV 1).

- List of entry documents required by the Member States in the case of third-country nationals (WGI 1379 REV 2).

## FALSE DOCUMENTS

Creation of a European Forgery Bulletin (Presidency conclusions at the Munich European Council on 3 June 1988, WGI 271, p19).

## DRUGS

Resolution of the Council and the Ministers for Health of the Member States meeting within the Council of 16 May 1989 concerning a European network of health data on drug abuse (OJ C 185, 22.7.1989, p1).

## II. CUSTOMS CO-OPERATION

Declarations adopted by the Directors-General for customs matters in accordance with the Naples Convention:

- Wiesbaden: 1971
- Dromoland 1: 1976
- Dromoland 2: 1976
- Istanbul 1: 1977
- Istanbul 2: 1977
- Iraklion: 1978
- London: 1974
- Munich: 1975
- Harrogate: 1992

## III. POLICE CO-OPERATION

for the record.

[Editor's note: this is all this document says on "police cooperation"; however, another document does contain the measures coming under this heading, see document no 8]

Attached to the ANNEX are a series of charts showing the state of ratification (signature, ratification, and entry into force) for each of the then 12 EU Member States.

The main headings are as follows:

### I. CONVENTIONS BASED ON ARTICLE 220 OF THE EEC TREATY, OR RELATED ACTS

Convention on Jurisdiction and Enforcement of Judgements in civil and commercial matters (1968)

Protocol on interpretation by the Court of Justice

Convention on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland

Convention on the accession of the Hellenic Republic (1982)

Convention on the accession of the Kingdom of Spain and the Portuguese Republic (1989)

Convention on the law applicable to contractual obligations

1st Protocol on interpretation by the Court of Justice

2nd Protocol

Convention on the accession of the Hellenic Republic (1984)

Convention on the accession of the Kingdom of Spain and the Portuguese Republic (1992)

Convention on jurisdiction and enforcement of judgements in civil and commercial matters (1988) (this was also signed by Austria, Finland, Iceland, Norway and Switzerland)

### II. CONVENTION BETWEEN MEMBER STATES CONCERNING A TOPIC COVERED BY TITLE VI OF THE TEU

Convention between Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands on assistance between their customs administrations ("Naples Convention")

### III. CONVENTION OPEN FOR SIGNING AND OTHER INSTRUMENTS COVERED BY TITLE VI OF THE TEU

Convention determining the state responsible for examining applications for asylum lodged in one of the member states of the European Communities

[Editor's note: there is no IV in the text]

### V. OTHER CONVENTIONS TO BE REGARDED AS FUNDAMENTAL

European Convention for the Protection of Human Rights and Fundamental Freedoms (and Protocols 1-10)

Convention relating to the status of refugees & Protocol relating to the status of refugees

Convention against Torture  
Single Convention on narcotic drugs (1961) & Protocol amending the Single Convention on narcotics drugs (1961)(in 1972)

Convention on Psychotropic substances

Convention against illicit traffic in narcotic drugs and psychotropic substances

### VI. EPC [European Political Cooperation]

#### A. EPC Conventions

##### - in criminal matters

Agreement on the application between the Member States of the European Communities of the Council of Europe Convention on the transfer of sentenced persons

Convention between the Member States of the European Communities on double jeopardy

Agreement between the Member States of the European Communities on the simplification and modernization of methods of transmitting extradition requests

Agreement between the Member States on the transfer of proceedings in criminal matters

Convention between the Member States of the European Communities on the enforcement of foreign criminal sentences

##### - in civil matters

Convention abolishing the legalization of documents in the Member States of the European Communities

Convention between the Member States of the European Communities on the simplification of procedures for the recovery of maintenance payments

#### B. Conventions drawn up in other fora which are regarded as important for EPC relating to areas covered by Title VI of the TEU

##### - in criminal matters

European Convention on Extradition & Protocols 1 and 2

European Convention on mutual assistance in criminal matters & additional Protocol

European Convention on the international validity of criminal

judgements

European Convention on the transfer of proceedings in criminal matters

European Convention on the suppression of terrorism

Convention on the transfer of sentenced prisoners

Convention on laundering, search, seizure and confiscation of the proceeds of crime

- in civil matters

Convention on the service abroad of judicial and extrajudicial documents in civil and commercial matters

Convention on international access to justice

Convention on the civil aspects of international child abuse

European Convention on the recognition and enforcement of decisions concerning custody of children and on restoration of custody of children

Convention for the protection of individuals with regard to automatic processing of personal data

Convention on the rights of the child

Convention on 1 March 1954 on civil procedures

Convention of 18 March 1970 on the taking of evidence abroad in civil or commercial matters

FOOTNOTES:

(1) CONF-A 1193, CONF-S 1193, CONF-SF 1193 of 12 February 1993 and CONF-N 2193 of 26 April 1993, paragraph 16, pp11 and 12.

(2) An unresolved problem could result in certain articles of the draft being amended. Applicant States may not request the renegotiation of articles on which agreement has been reached.

(3) The Ministers have not yet decided on the provisions of this draft. They have however agreed to base it on the principles governing the provisions of the Convention applying the Schengen Agreement.

(4) The Ministers have not yet decided on the provisions.

(5) These two Conventions are mentioned in Title VI of the TEU (Article K.2(1)).

(6) The reference in the TEU to the European Convention for the Protection of Human Rights and Fundamental Freedoms must be regarded as a general reference to the System of the Convention. Article F of the TEU, which states that the Union shall respect fundamental rights as guaranteed by the Convention and as they result from the constitutional traditions common to the Member States as general principles of Community law, transposes into the Treaty the principles evolved by the Court of Justice in the matter. The Article makes reference to the Convention whilst the Court had already referred to some of its Protocols (see, for example, Case 44/79 Hauer, ECR 1979, page 3727).

(7) The European Economic Community is party to this Convention. See Council Decision 901661 /EEC of 22 October 1990 concerning the conclusion, on behalf of the European Economic Community, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (OJ L 326, 24.11.1990, p.56).

(8) An Agreement between the Member States of the European Communities concerning the application of the European Convention on the Suppression of Terrorism, signed in Dublin on 4 December 1979, was also drawn up within the EPC framework. This Agreement, which was ratified by Belgium, France, Italy, Luxembourg and the Netherlands, did

not enter into force and is no longer being examined within the EPC framework.

(9) The Spanish delegation announced that it would be making a unilateral statement for the minutes concerning this Convention.

## 8

# Overview of the Acquis of the Trevi Agreement: police cooperation

## Introduction

Report prepared by the Belgian Presidency which gives details of the decisions on police cooperation included in the Trevi acquis missing from Document no 7 (*Statewatch* translation).

## Overview of the Acquis of the Trevi Agreement: police cooperation

Reference:

The Council  
Brussels, 21 October 1993  
Circ 3678/93

Overview of the Acquis of the Trevi Agreement

I. The European Treaty with regard to the fighting of terrorism and the Ministerial agreement regarding the formation of Europol drug units have been listed in Document CIRC 3665/93 JUR 101.

II. The TREVI group proposes at the same time to incorporate the following decisions of TREVI ministers in the acquis of the Twelve.

1. The setting up of a network of liaison offices and procedures for mutual exchange.

Recommendation-Ministers 31.05.1977 London  
Recommendation-Higher Civil servants 08.12.1981, Copenhagen  
Decision-Ministers 09.12.88 Athens  
Recommendation-Ministers 11-12.06 1992 Lisbon

2. Procedure for the exchange of information about hijacking and exchange of experience and information about the safety of land and sea transportation.

Decision-Ministers, 10.06 1983, Bonn  
Recommendation-Minister, 20.06.1985, Rome.

3. Exchange of information about weapons through regular correspondents.

Resolution-Ministers, 24.06.1986, The Hague.

4. International exchange of Information about undesirable aliens from third countries who pose a terrorist threat.

- Decision-Ministers, 20.06.1985, Rome.  
Decision-Ministers, 28.04.1987, Brussels.
5. Setting up of a network of regular correspondents with regard to vandalism at sporting events.  
Decision-Ministers, 28.04.1987, Brussels.
6. International exchange of information about the theft of weapons and explosives that could be used for terrorist aims.  
Agreement-Ministers, 28.04.1987, Brussels
- 6a. Centralised collection of information in a European context of information about explosives.  
Decision-Ministers, 28.06.1987, Munich
7. Permanent evaluation of the threat of terrorism.  
Agreement-Ministers 28.04.1987, Brussels.  
Decision-Ministers, 02-03.12.1991, The Hague.
8. Detachment of liaison officers for drugs to countries that do not belong to the EEC.  
Agreement-Ministers, 28.04.1987, Brussels  
Agreement-Ministers, 09.12.1987 Copenhagen.  
Decision-Ministers, 03.06.1988. Munich  
Recommendation-Ministers, 14.06.1991, Luxembourg.
9. Urgent proscriptions with regards to the immediate spreading of information after severe terrorist attacks.  
Decision-Ministers, 03.06.1988, Munich  
Decision-Ministers, 11-12.05.1989, Madrid.
10. The setting up of a centre for the collection of evidence with regards to false Arab documents (Z.A.P).  
Decision-Ministers, 12.05.1989, Madrid.
11. Common policy intentions to fight the production, circulation and use of illegal methods of payment.  
Recommendation-Ministers, 14-15.12.1989, Paris.
12. Common Policy intentions with regards the fight against organised violent crime.  
Recommendation-Ministers, 14-15.12.1989, Paris.
13. Common policy intentions with regard to the protection of the cultural heritage.  
Recommendation-Ministers, 14-15.12.1989, Paris.  
Recommendation-Ministers, 11-12.06.1992, Lisbon.
14. Communal policy intentions with regards to the protection of witnesses.  
Recommendation-Ministers 14-15.12.1989, Paris.
15. The setting up of a network of regular correspondents with regards police techniques, to offer assistance to drug-producing and through-transport countries for drugs.  
Decision-Ministers, 15.06.1990, Dublin.
16. Coordination of support to East-European countries with the aim of the re-establishing of police services.  
Decision-Ministers, 15.06.1990 Dublin.
17. Detachment of liaison civil servants within the EEC
- Decision-Ministers, 14.06.1991, Luxembourg.
18. Technical and scientific cooperation in police affairs through regular correspondents.  
Statement-Ministers, 14.06.1991, Luxembourg.
19. Cooperation with regard to training.  
Statement-Ministers, 14.06.1991, Luxembourg.  
Recommendation-Ministers, 11-12.06.1992 Lisbon.
20. Common detection measures for the fighting of terrorism (Wanted Posters and files).  
Recommendation-Ministers, 02-03.12.1991, The Hague.
21. Cross-border police cooperation.  
Recommendation-Ministers 02-03.12.91, The Hague.
22. Common policy intentions with regards to the controlled supply of drugs.  
Recommendation-Ministers, 02-03.12.91, The Hague.
23. Mutual assistance in investigations.  
Recommendation-Ministers 02-03.12.91, The Hague.
24. Common policy intention with regard to the analysis of criminality.  
Recommendation-Ministers, 11-12.06.92 Lisbon.
25. Common policy intentions with regards to the organisation of sporting events.  
Resolution-Ministers, 11-12.06.92 Lisbon.
- III. The TREVI group finally proposes that the following decisions that are already being applied should be incorporated into the acquis of the Twelve.
1. The installing of regular correspondents in the area of public order.  
Statement-Ministers, 02-03.12.91, The Hague.
2. Common policy intentions with regards to the interception of telecommunications.  
Statement-Ministers, 02-03.12.91, The Hague.  
Recommendation-Ministers, 02.06.93, Copenhagen.
3. Common policy intentions with regard to the combatting of the financing of terrorism.  
Statement-Ministers 02-3.12.91, The Hague.
4. Common policy intentions with regard to Environmental infringements.  
Recommendation-Ministers 11-12.06.1992, Lisbon.
5. Common policy intention as regards traffic.  
Recommendation-Ministers 11-12.06.92, Lisbon.
6. Common policy intentions as regard the laundering of capital.  
Recommendation-Ministers, 02.06.1993, Copenhagen.

# 9

## Informal Meeting of the Ministers of Justice, Chateau de Limelette, 27 and 28 September 1993.

### Introduction

Just weeks before the Treaty of European Union came into effect at the end of October 1993 an "informal" meeting dealt with outstanding matters. One of the first "informal" meetings which later became more regular having the virtue, from governments' point of view, of having no formal agendas or decisions.

### Informal Meeting of the Ministers of Justice, Chateau de Limelette, 27 and 28 September 1993.

Reference: original text, 1993.

#### COMMUNIQUE OF THE EUROPEAN PRESIDENCY

During the meeting of the Ministers of Justice of the Member States of the European Community at the Chateau de Limelette on the 27th and 28th September 1993, following points have been treated.

#### 1. Extradition

In order to increase the efficiency of judicial cooperation within the Community in the fight against serious crime that often assumes trans-border forms, progress could be made in the area of extradition.

Taking into account the rights of the individual under the European Convention of the protection of Human Rights and Fundamental Freedoms, the following measures should in particular be examined by the group for the purpose of assessing the expediency of incorporating them in a Convention between the Twelve on extradition

- a better definition of the extraditable offences.
- exclusion of political offences as defined in art.1 and 2 of the European Convention on the Suppression of Terrorism of the 27th January 1977 as a ground for refusal of extradition.
- the lapse of time should be the inclusive competence of the requesting State.
- extradition of nationals, possibly with conditions.
- life sentence: extradition for offences punishable by life imprisonment in the requesting States' law, even if the sentence is not provided for in the requested State's legislation.

On the other hand, the working group will examine the best way to simplify and accelerate the extradition procedure in a way compatible with the basic principles of the Member States' domestic laws.

#### 2. Legal assistance and cooperation in criminal matters.

2.1. Outside the framework of the relations between the Twelve, nine Member States, which are moreover parties to the SCHENGEN Agreement, have agreed upon a number of measures to simplify mutual legal assistance between them, measures which should soon come into

force, as early as the enforcement convention on the SCHENGEN Agreement will come into effect. These measures include the principle of direct transmission of requests for mutual legal assistance between judicial authorities; there is also the possibility of direct transmission, between judicial authorities, of denunciations with a view to proceedings for certain types of offences.

Great interest was shown in speeding up procedures through extending direct links between competent authorities along the lines of the mutual assistance arrangements of the SCHENGEN Agreement.

However, these streamlined methods must be modulated to conform to the administrative and legal structures of each country, which naturally presupposes a heightened awareness on the part of magistrates of the legal systems applying in other member States.

2.2. The Member States are pleased with the methods of assistance between border States, in compliance with the conventions that are already operative.

2.3. There is an agreement in principle to appoint in each of the Member States contact magistrates or authorities working in the area of judicial cooperation and whose role would consist in directing foreign authorities towards competent national authorities in the case of requests from foreign countries as well as identifying competent foreign authorities for requesting national authorities, in the case of requests addressed abroad. This initiative completes other initiatives, such as the liaison magistrates who, in some countries, try to improve mutual knowledge, or the redaction of a yearbook which collects useful information on each member State.

#### 3. Structures to be set up in pursuance of the Maastricht Treaty.

The Ministers fundamentally agreed upon the proposal of the Belgian Presidency to limit, as much as possible, the number of intermediary levels between the representatives of the ministers and the Council of Ministers.

At present, the "judicial cooperation" working group exists as such; however, it sometimes meets in its criminal configuration, sometimes in its civil configuration. In the framework of the new structures, this way of proceeding could be maintained in order to avoid creating a new level: the "judicial cooperation" management committee would sometimes meet in a criminal configuration, sometimes in a civil configuration.

The Presidency felt it important to involve practitioners in the judicial cooperation efforts. In this it was supported by all delegations who did, however, agree that the procedure through which these practitioners would be involved, should be thoroughly examined at a subsequent meeting.