



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 17 June 2003

10621/03

JAI	181
ASIM	41
RELEX	246
FIN	268

NOTE

from: the Presidency

to : the European Council

Subject : Council conclusions on the development of a common policy on illegal immigration, external borders, the return of illegal migrants and cooperation with third countries

Delegations will find attached the Council conclusions as adopted by the Council on 16 June 2003.

COUNCIL CONCLUSIONS
ON
THE DEVELOPMENT OF A COMMON POLICY ON ILLEGAL IMMIGRATION,
EXTERNAL BORDERS, THE RETURN OF ILLEGAL MIGRANTS AND
COOPERATION WITH THIRD COUNTRIES

THE COUNCIL,

- Recalling the European Council conclusions in Seville on 21 and 22 June 2002, where the Heads of State and Government reiterated their determination to speed up the implementation of all aspects of the programme adopted in Tampere on 15 and 16 October 1999.

- Recalling, in particular, the Seville guidelines regarding the measures to combat illegal immigration, the gradual introduction of coordinated, integrated management of external borders and the integration of immigration policy into the Union's relations with third countries.

- Recalling the principle of solidarity, which is inscribed in the present Treaty, with reference to the reception of refugees and displaced persons and inspired the creation of the European Fund for the Refugees.

- Convinced that the principle of solidarity implies equitable sharing of responsibilities among Member States, including in the financial domain, in the fields of all community policies on border checks, asylum and immigration.

- Recalling that the Seville European Council requested the Commission to implement a study concerning burden-sharing between Member States and the Union for the management of external borders, and to submit a report to the Council on the effectiveness of financial resources available at Community level for repatriation of immigrants and rejected asylum seekers, for management of external borders and for asylum and migration projects in third countries.

- Noting that the Council conclusions of November 2002 on intensified cooperation on the management of migration flows with third countries, the Commission communication of December 2002 and the Council conclusions of May 2003 on migration and development have determined the framework for integrating migration issues in the European Union's relations with third countries.

- Referring to the Council Conclusions of 28 February 2002, which invited the Commission to conduct a feasibility study to see how sea border controls can be improved, and of June 2002 on measures to be applied to prevent and combat illegal immigration and smuggling and trafficking in human beings by sea and in particular on measures against third countries which refuse to cooperate with the European Union in preventing and combating this phenomenon

HAS ADOPTED THE FOLLOWING CONCLUSIONS:

1. Visas

Referring to the Council conclusions of 5 June 2003 on the development of the Visa Information System (VIS), the Council deems necessary that, following the feasibility study by the Commission on the VIS, orientations should be determined as soon as possible, in order to satisfy the preferred options, with regard to the planning for the development of the system, the appropriate legal basis which will permit its establishment and the engagement of the necessary financial means, while respecting the financial perspectives. In this framework a coherent approach is needed in the EU on biometric identifiers or biometric data, which would result in harmonised solutions for documents for third country nationals, EU citizens' passports and information systems (VIS and SIS II). The Council invites the Commission to prepare the appropriate proposals, starting with visas.

2. Management of external borders

Taking into consideration the common interest of all EU Member States to establish a more effective management of the external borders of EU Member States and noting the results achieved from the implementation of the various operational programmes, pilot projects, risk analysis, training of border personnel etc., as well as the conclusions to be drawn from the study undertaken by the Commission, at the request of the Council, relating to the complex and sensitive question of sea border controls, the Council stresses the importance of assuring the continuity and coherence of Community action in this field by setting out priorities and determining a more structured framework and methods.

The Council recognises the progress made in fully activating the operational branch of SCIFA required by the Seville conclusions, and more particularly, the tasking of the Common Unit of External Border Practitioners with the operational implementation and coordination of the measures contained in the Plan for the management of the external borders, which includes coordination and monitoring of "Centres" and operational activities, as well as preparation of strategic decisions, for the more effective and integrated management of the external borders of EU Member States. As mentioned in the conclusions adopted by the Council on 5 June 2003 to that effect, the General Secretariat of the Council will ensure the preparation and follow-up of the meetings of the Common Unit and could be assisted in this task, at the initial phase, by experts detached by the Member States.

The Council invites the Commission to examine, in due course, drawing on experience by the Common Unit activities, the necessity of creating new institutional mechanisms, including the possible creation of a Community operational structure, in order to enhance operational cooperation for the management of external borders.

The Council emphasises the need for the acceleration of the works for the adoption of the appropriate legal instrument formally establishing the ILOs network in third countries, at the earliest possible date and before the end of 2003.

The Council invites the Commission to present, as soon as possible, proposals on the recast of the Common Manual, including the stamping of travel documents of third country nationals.

3. Return of illegal migrants

The implementation of a common policy on return of illegally residing persons belongs to the responsibility of Member States. However, greater efficiency can be achieved by reinforcing existing cooperation and setting up mechanisms to this end, including a financial component.

In this context, the Council invites the Commission to examine all aspects relating to the establishment of a separate Community instrument in order to support, in particular, the priorities as set out in the Return Action Programme approved by the Council, and to report back to it by the end of 2003.

4. Partnership with third countries

In the context of integrating migration issues in the European Union's relations with third countries, the Council reaffirms that the EU dialogue and actions with third countries in the field of migration should be part of an overall integrated, comprehensive and balanced approach, which should be differentiated, taking account of the existing situation in the different regions and in each individual partner country. In this respect, the Council recognises the importance to develop an evaluation mechanism to monitor relations with third countries which do not cooperate with the EU in combating illegal immigration, and considers the following topics to be of primary importance:

- . participation in the international instruments relevant to this matter (e.g.: Conventions on Human Rights, the Geneva Convention of 28 July 1951 relating to the status of refugees as amended by the New York Protocol of 31 January 1967, etc.),
- . cooperation of third countries in readmission/return of their nationals and of third-country nationals,

- . efforts in border control and interception of illegal immigrants,
- . combating of trafficking in human beings, including taking legislative and other measures,
- . cooperation on visa policy and possible adaptation of their visa systems,
- . creation of asylum systems, with specific reference to access to effective protection, and
- . efforts in redocumentation of their nationals.

In developing the above evaluation, the Council will make use of the information to be provided by the ILOs network for any of the above topics that fall under their competencies.

The Council invites the Commission to report annually on the results of the above monitoring of cooperation of third countries, and to make proposals or recommendations as it would deem appropriate.

5. Community financial resources and burden-sharing mechanism

Following the development of mutual confidence between Member States for the promotion of the area of liberty, security and justice, which is a priority objective of the Union, the Council emphasises that the principle of solidarity must be consolidated and must be made more concrete, notably in terms of reinforcement of operational cooperation. The Council estimates that, taking into account the overall framework and the need for budgetary discipline, the post 2006 financial perspectives should reflect this political priority of the Community.

In the meantime, the Council invites the Commission to examine, while respecting the principles determining the use of the budget, the possibility of appropriating funds under heading 3 of the financial perspectives taking into account the need to safeguard appropriate margins under the ceiling of this heading, in order to address, during the period 2004-2006, the most pressing structural needs in this area and to cover a wider definition of solidarity that would, noting the Commission Communication, include inter alia the Community support in the management of external borders, the implementation of the Return Action Programme and the development of the Visa Information System (VIS). In this respect, the Council notes the Commission's relevant analysis and that its estimated needs amount to 140 million euros.