

9143/94

RESTREINT

ASIM 170

NOTE

from: Presidency

on : 9 September 1994

to : External Frontiers Group

No. prev. doc.: 8029/94 ASIM 128

Subject: Commission initiative for a Decision establishing a Convention on controls on persons crossing external frontiers

– Procedure for adopting the implementing measures (Article 26)

At the meeting of the External Frontiers Group on 2 September 1994, the Presidency argued that the relevant procedure in the Agreement for adopting the implementing measures should be laid down only in principle, allowing the Council to take a decision to change it and reserving the possibility of such a decision at a later stage.

This flexible arrangement has the advantage that in specific cases the appropriate voting method can be decided according to the political significance of the decision to be taken, thus relieving the discussions on the External Frontiers Convention of the burden of such delicate matters of demarcation.

This pragmatic approach met with the support of all delegations. However, the question of how the differentiation required under Article 26 could be translated into a practical procedure was left open.

In the view of the Presidency, there are several possible ways of resolving this.

The sentence in square brackets added to each of the proposed alternatives should enable the treatment of each separate implementing measure to be matched to the conditions prevailing at any particular time.

Article 26
Implementing measures

1. Alternative

The necessary implementing measures shall be adopted by the Council **acting unanimously** on the initiative of the Commission or a Member State, unless the Council decides **unanimously** on a list of such implementing measures, which shall be adopted pursuant to the second subparagraph of Article K.3(2) of the Treaty on European Union. [Notwithstanding this provision, the Council may stipulate a specific procedure for taking decisions on individual implementing measures.]

2. Alternative

The necessary implementing measures shall be adopted by the Council, acting unanimously on the initiative of the Commission or a Member State, unless the Council decides **by a 2/3 majority of the Member States' votes** on a list of such implementing measures, which shall be adopted pursuant to the second subparagraph of Article K.3(2) of the Treaty on European Union. [Notwithstanding this provision, the Council may stipulate a specific procedure for taking decisions on individual implementing measures.]

3. Alternative

The necessary implementing measures shall be adopted by the Council, acting on the initiative of the Commission or a Member State, pursuant to the **second subparagraph of Article K.3(2) of the Treaty on European Union**, unless the Council decides **unanimously** on a list of such implementing measures which shall be adopted unanimously. [Notwithstanding this provision, the Council may stipulate a specific procedure for taking decisions on individual implementing measures.]

Alternative

The necessary implementing measures shall be adopted by the Council, acting on the initiative of the Commission or a Member State, **pursuant to the second subparagraph of Article K.3(2) of the Treaty on European Union**, unless the Council decides by **a 2/3 majority of the Member States' votes** on a list of such implementing measures, which shall be adopted unanimously. [Notwithstanding this provision, the Council may stipulate a specific procedure for taking decisions on individual implementing measures.]
