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CONCLUSIONS OF THE MEETING

of: K.4 Committee

on: 15 and 16 December 1993

1. Adoption of the agenda

The Committee approved the agenda set out in 11004/93 OJ/CK.4 3 supplemented by telex No 4546 of 10 December 1993.

The Committee agreed to discuss under "Other business" the items listed under 12 below.

2. Draft minutes of the Council meeting (Justice and Home Affairs) on 29 and 30 November 1993

The Committee took note of:

- a statement by the Presidency on the procedure to be followed for the approval of these minutes;
- the preliminary comments made by a number of delegations particularly with respect to item 23 on the organization of relations with third countries. Several delegations in fact thought the K.4 Committee should give its opinion on this question before Coreper took its decision.

The Netherlands delegation said it might possibly be withdrawing its reservation on items 19(a) and (b) (Europol) very shortly.

3. Follow-up to the Council meeting (Justice and Home Affairs) on 29 and 30 November 1993 and to the European Council meeting on 10 and 11 December 1993

The K.4 Committee discussed the following specific items:

- Asylum

The Committee finalized the questionnaire set out in telex No 4627 and asked delegations to submit their replies by 3 January 1994. The Committee asked the Secretariat to draw up a summary of the replies for Steering Group I's meeting on 14 January 1994.

- Organized crime

The K.4 Committee emphasized the role of the Group on Drug Trafficking and Organized Crime in implementing the Council's instructions. The judicial co-operation aspects should be handled by the Group on International Organized Crime.

The Committee asked these two Groups to submit an initial report for its meeting in March.

- Racism and xenophobia

The Committee instructed the Groups on Police Co-operation and International Organized Crime to carry out the Council's instructions and asked them to report back to the Committee before the end of the Greek Presidency.

- Drugs

The Committee noted that:

- = it emerged from the conclusions of the Edinburgh European Council that the national co-ordinators could have a role to play, particularly in the preparation of international meetings;
- = it was for the K.4 Committee to co-ordinate action to combat drug abuse under Title VI of the Treaty on European Union;
- = it was for Coreper to co-ordinate proceedings on drug abuse undertaken in all three fora.

- Other items

Leaving aside the specific items discussed above, the Committee agreed that the coming Presidency should brief directly the competent Groups to implement the various points in the action plan and the priority programme of work, focusing in the latter case on the priority measures.

- Forwarding of documents to the European Parliament

The Committee agreed:

- = to mandate the Presidency to forward to the European Parliament the documents relating to items 10 (10375/93 ENFOPOL 45), 11 (10362/93 ENFOPOL 43, Annex I), 12 (10373/93 JAI 7) and 14 (10376/93 ENFOPOL 46);

- = to postpone a decision on the forwarding of other documents until the reservations concerning them had been withdrawn.

4. European Information System (EIS)

[9967/93 CK.4 8 and 9925/93 CK.4 7]

The Committee examined the reservations outstanding on the text of the draft Convention set out in 9967/93 CK.4 8, and noted that:

- the Spanish reservation on the link between the EIS and the Convention on the crossing of external frontiers (EFC) had been withdrawn;
- the Spanish delegation was upholding its position on the need to include in the text of the Convention provisions on judicial and police co-operation based on Articles 39 and 46, 48 to 53 and 67 to 69 of the Schengen Agreement;
- other reservations, in particular those regarding the role and operation of the Executive Committee, the possible role of the Court of Justice, and the legal form (Council Decision recommending adoption of the Convention as suggested in 9925/93 CK.4 7) should be examined in a broader context, account being taken at the same time of the other Conventions under discussion (external frontiers, CIS, Europol).

In these circumstances it was agreed that this item would be included again on the agenda for the next Committee meeting with a view to examining the possibility of resolving the fundamental problem still outstanding (police and judicial co-operation) as a result of the diverging interpretations of Article 7a of the Treaty.

5. Council's Rules of Procedure

- Decision of the General Affairs Council on 6 and 7 December 1993
[10634/1/93 JUR 157 REV 1 and 10653/93 JUR 158]

The Committee had no time to examine this item.

6. Relations with the European Parliament

- Note from the Presidency [10108/93 CK.4 10]

The German delegation entered a general reservation on the Presidency's note since it had not received the German translation.

Although the Committee was able broadly to accept the guidelines to be followed for application of Article K.6, which are listed in the note from the Presidency, as regards:

- regular information to be forwarded to the Parliament on discussions in the areas covered by Title VI;
- questions put to the Council by the European Parliament, as listed in the note,

most delegations thought that the section covering consultation on the principal aspects of activities covered by Title VI went beyond what was laid down in Article K.6 and made it too binding in nature. These delegations advocated a less formal and more general approach which would make a clear distinction between consultation of the European Parliament under the third pillar and the consultation carried out within the Community sphere.

Other delegations on the other hand thought that consultation of the European Parliament should be as full as possible and should relate if necessary to specific texts.

The Presidency drew the Committee's attention to the fact that relations with the European Parliament and the establishment of agreed procedures for implementation of Article K.6 were of particular importance following the request made to the President of the Council that the possibility of drawing up an inter-institutional agreement in the area of Title VI be examined. For that reason the Presidency was to write to the Chairman of Coreper asking him to take into consideration the opinion to be drawn up by the K.4 Committee at its January meeting on the question of the application of Article K.6.

As a result, at its next meeting the K.4 Committee will re-examine this question on the basis of a new document prepared in conjunction with the new Presidency taking into account the comments made by the various delegations.

7. EDU

- Start-up arrangements

Since the scrutiny reservations entered by the Spanish and Netherlands delegations on 10363/93 ENFORC 12 and 9756/3/93 ENFORC 2 REV 3 had been withdrawn, the Presidency announced that the EDU would start up on schedule.

The Netherlands delegation announced that the building housing the EDU would be formally opened on 16 February 1994.

8. EUROPOL CONVENTION

(a) Working method: note from the German delegation [10849/93 ENFOPOL 47]

In the light of the proceedings of the ad hoc Group on Europol on 15 and 16 December 1993, the Committee discussed how work on the draft Convention setting up Europol might be speeded up. The Committee recorded agreement on the French delegation's suggestion that the ad hoc Group on Europol meet more frequently over the next six months.

This Group should meet in a restricted composition and devote its meetings to specific topics.

A number of delegations suggested appointing personal representatives to conduct these negotiations.

The German and Netherlands delegations suggested that, in the event of logistic problems, they make arrangements for the Group to meet over several consecutive days in their countries.

The future Greek Presidency said it would endeavour to step up the number of meetings and would submit a programme of work on the draft Convention in January.

(b) Control of the execution of the Europol budget [11072/1/93 ENFOPOL 61 REV 1]

The Committee recorded agreement on 11072/2/93 ENFOPOL 61 REV 2: draft letter from the Secretary-General of the Council to the Secretary-General of the Court of Auditors. The draft will be submitted for approval by Coreper and the Council ("A" item).

9. VISA - EXTERNAL FRONTIERS

- First exchange of views on the Commission proposals

The Committee:

- heard a presentation by the Commission of the above proposals;
- held an initial exchange of views on the proposals; delegations concentrated on the interpretation of Article 100c of the EC Treaty, the jurisdiction of the Court of Justice of the EC, mutual recognition of visas issued by Member States and consultation of the European Parliament;
- agreed to return at its January meeting to the question of consultation of the European Parliament on the draft External Frontiers Convention and subsequently to forward its Opinion to Coreper;
- instructed Steering Group I (Asylum and Immigration) to examine the above proposals.

10. RELATIONS WITH THIRD COUNTRIES

The only question discussed was that of the action to be taken on the documents distributed by the United States and Canada at their meeting with the Ministers of the Troika on 1 December.

It was agreed that these documents could be circulated to the various Groups concerned which could take them into account.

11. REPLY TO THE LETTER CONCERNING THE ESTABLISHMENT OF AN INTERNATIONAL CENTRE FOR THE DEVELOPMENT OF MIGRATION POLICIES

The Committee agreed to ask the Presidency to send the letter set out in 10055/93 CK4 9.

12. OTHER BUSINESS

- Burden-sharing

The Italian delegation intimated that it intended to send the General Secretariat of the Council a document concerning examination of the question of the sharing of the burden involved in the arrival and stay of refugees in Western Europe.

- Accession of Austria

At the request of Coreper, the Committee examined the memorandum submitted by Austria.

On the basis of delegations' comments , the Presidency drew up the attached note.

Brussels, 16 December 1993

NOTE FROM THE PRESIDENCY

Subject: Reaction of the K.4 Committee at its meeting on 16 December 1993 to Austria's reply regarding the list on the "acquis" of the Union and of its Member States in the fields of justice and home affairs (CONF-A 82/93)

1. Delegations welcomed Austria's positive response on the "acquis" of the Union and its Member States (9568/93 CK4 2 + ADD 1). However, they considered that Austria should express its acceptance of the "acquis" more clearly and not simply "in principle" as stated in the second paragraph of the Annex. Delegations would also like to receive clarification from Austria on the reference at the end of the third paragraph to the pragmatic resolution of any problems which might arise.
2. Delegations also made the following comments on the further information as to the Austrian position with regard to Chapter 25: Justice and Home Affairs:
 - Participation by Austria in the work of the Council (page 2 of CONF-A 82/93)

Until the Accession Treaties are signed, the aim of the intensive dialogue which has been initiated with the applicant countries is to exchange information. It is not possible for Austria to take part in Council meetings during the negotiating process.

– **Dublin Convention on examining applications for asylum (page 2) and draft Convention on the crossing of external frontiers**

The Dublin Convention, which is in the process of ratification by the Member States, is part of the "acquis". Austria will of course be able to make use of the procedures in Articles 16 and 17 of that Convention and in Article 26(2) of the draft Convention on external frontiers on the same terms as the other Member States.

– **Common policy on immigration (top of page 3)**

Immigration policy is regarded by the Member States of the Union as a matter of common interest.

However, it is not possible to speak of a common policy in this area.

– **Temporary protection for displaced persons from the former Yugoslavia (page 3)**

It is not true to say that no consideration has been given to victims of oppression.

Member States have frequently consulted each other on this issue over recent years and Ministers have been able to establish that appropriate, although differing, measures have been taken by all Member States.

– **Rules on data protection (page 4)**

These rules are currently being discussed within the Council. It should be remembered that there is a Council of Europe Convention of 28 January 1981 and a Recommendation by the Committee of Ministers of the Council of Europe of 17 November 1987 on this subject. At this stage it is not possible to prejudge the outcome of the Council's discussions.

