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from :	Presidency
to :	Asylum Working Party
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Subject :	<b>Draft topics for a strategy on migration and asylum policy – Working Party on Asylum remit</b>

**Delegations** will find attached draft topics for a strategy on migration and asylum policy, ~~prepared~~  
~~prepared revised~~ by the Presidency in the light of the discussions of the Working Party on Asylum  
on ~~1 and 2 March~~ ~~1 and 2 March~~ 13 April 1999.

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**Draft topics for a strategy on migration and asylum policy  
(Working Party on Asylum remit)**

1. In the next few years, the European Community and its Member States are aiming to create an area of freedom, security and justice. To this end, the Amsterdam Treaty commits the Council to adopt measures covering, inter alia, policy on asylum and refugees.
2. In order to fulfil these tasks, it is essential to **devise a comprehensive strategy** on migration and asylum policy. The main aims of such a comprehensive strategy should include:
  - formulating policy guidelines and determining the direction of individual measures;
  - helping to develop a coherent policy, covering all migration and asylum issues, including the external aspects;
  - making sure that all individual measures fit into the framework of a coherent policy;
  - giving the public an indication of what an area of freedom, security and justice should mean in practice.
3. **Member States' obligations under international law** must be borne in mind when formulating a European strategy on migration and asylum policy. Article 6 of the TEU and Article 63 of the TEC confirm that any future measures will have to comply with the European Convention on Human Rights and the Geneva Convention on Refugees. Cooperation between the EC and its Member States and the UNHCR should also be stepped up in future.

4. Pursuant to the Amsterdam Treaty, asylum policy is to be developed further in order to achieve greater harmonisation. In addition, complementary protection arrangements are to be devised for displaced persons and persons otherwise in need of international protection. Finally, as already highlighted by the conclusions of the European Council in Edinburgh in 1992, the external aspects of European migration policy have to be borne in mind.
5. If the European Community and its Member States are to have a coherent policy on asylum and refugee questions, that policy must deal with the **reasons why people flee their homes and why they emigrate**, and with the human rights situation. This will, above all, entail removing the causes of flight, engaging in an active human rights policy, preventing conflict, cooperating on economic and development policy and promoting basic democratic principles.

In this connection, it should also be borne in mind that the vast majority of refugees seek refuge in neighbouring countries within their region of origin. Ways must therefore be found of effectively helping these countries to take in refugees from their region. The international community must make a joint effort to ensure that countries in the home region, or neighbouring regions, are best able to take in refugees and provide protection for them (**regionalisation of refugee intake**). This will help to avoid refugees being permanently uprooted from their homes and their culture, thus making it easier for them to return, and will enable Member States to make more resources available for removing the causes of flight. Such plans would not, of course, absolve Member States from their responsibility for persons who are present on their territory and in need of protection.

6. Pursuant to the Amsterdam Treaty, the following measures are to be adopted to **develop asylum policy further**:
  - 5.1 The Council must adopt criteria and mechanisms for determining which Member State is responsible for considering an application for asylum. The aim ~~is~~ will be to ensure that to implement such ~~the Dublin Convention the Dublin Convention criteria and mechanisms for responsibility are implemented for responsibility~~ as effectively as possible.

To improve application of the Dublin Convention, the legal and technical conditions for bringing EURODAC into operation should be put in place as soon as possible.

- 6.2 Greater convergence in the residence conditions for asylum seekers should also be sought. Creating minimum standards for the reception of asylum seekers would be a major help in any large-scale secondary movements.
- 6.3 ~~The criteria~~ Minimum standards for the recognition of refugees should also be harmonised. ~~In the December 1993 Action Plan (10655/93 JAI) the Council emphasised that asylum applications should be dealt with according to harmonised provisions of substantive law, using equivalent procedures conducted at an appropriate level, in order to boost Member States' mutual confidence and secure public acceptance of the policy. The issue of persecution by third parties will also need to be considered in this connection.~~ Harmonisation of the criteria for recognition would create the conditions for mutual recognition by Member States of decisions on asylum applications.
- 6.4 Lastly, minimum standards should be laid down for asylum procedures. The purpose of these procedures is to ensure that decisions on refugee status are taken within a reasonable time and with a high degree of certainty as to their correctness. Accordingly, Member States will have to provide well-equipped authorities and appeal bodies and qualified staff.

To curb asylum abuse, the question of fast-track procedures for dealing with manifestly unfounded asylum applications will also need to be considered. Here too the procedural arrangements must guarantee that the decisions taken are correct. This is especially true of the procedures for checking asylum applications prior to the decision on entry which are applied in some Member States.

7. The Amsterdam Treaty gives clear instructions for the adoption of measures in the following areas of **refugee policy**:

- temporary protection for displaced persons;
- **temporary** protection for persons who otherwise need international protection;
- promoting a balance of effort in receiving, and bearing the consequences of receiving, refugees and displaced persons.

7.1 The Council is thus required to provide additional, complementary protection arrangements, alongside those offered by the Geneva Convention. This is to take account of the fact that many of those seeking protection from civil war or widespread violence do not come within the terms of the Convention. In so doing, a clear distinction should be maintained between subsidiary protection accorded in individual cases and a temporary régime designed to deal with a mass influx.

In this connection, it should be pointed out that the protection accorded by the Geneva Convention does not have to be permanent (Article 1 (C) of the GC). Likewise, therefore, refuge accorded on humanitarian grounds ~~does must~~ not ~~have~~ to be designed to be permanent. If such refuge is only on a temporary basis to begin with, however, long-term legal residence must still be possible later on, for example if return to the country of origin is out of the question.

7.2 The European Community and its Member States should also take steps to curb "internal migration" within the European Union. In an area where people enjoy freedom of movement, where internal border controls have been removed, asylum seekers and other displaced persons are in practice free to move unhindered from one Member State to another. A convergence of residence conditions should therefore also be sought for those applying for or awarded subsidiary or temporary protection. Devising a system of readmission for this group of persons within the European Union; ~~along the lines of the Dublin Convention;~~ might also be considered.

7.3 Host states which take in refugees ~~may be~~ are faced with severe social, financial and economic problems, particularly when there is a mass influx. When devising a temporary protection régime for displaced persons, care should be taken to share the burden out evenly. It will need to be seen how this can be done through the allocation of persons ~~and~~ or through financial support payments.

8. If the institution of "asylum" is to be preserved and Member States are to continue to be able to take in refugees, it is essential that those who are not in need of international protection should return to their countries of origin. Under international law, every State has a duty to readmit its own nationals back into its territory. The European Community and the Member States will, if necessary, conclude readmission agreements with countries of origin and transit countries if, without such agreements, readmission cannot be effected or cannot be effected efficiently.