EUROPEAN UNION
THE COUNCIL

Brussels, 3 December 1993 (13.12)
(OR. f)

10532/93

RESTREINT

CK.4 12

CONCLUSIONS OF MEETING

of: K.4 Committee

on: 17 and 18 November 1993

1. Adoption of the agenda

The Committee agreed to the agenda as it appears in 9763/1/93.

The Spanish delegation stated that it was entering a reservation on all the items relating directly or indirectly to Asylum, Europol and the EDU.

2. Follow-up to the European Council of 29 October 1993 and preparation of priority work programmes for 1994

The Committee finalized the action plans and priority work programmes.

The outcome of proceedings appears in the following documents: 10348/93 JAI 6, 10290/93 ASIM 17, 10350/93 ENFORC 10, 10351/93 ENFORC 11 and 10365/93 JUST 6.

The Italian delegation submitted a statement for the minutes (Annex I) on the establishment, in accordance with the new provisions of the Treaty, of the list of third countries whose nationals require visas.

3. **Implementation of Title VI of the Treaty on European Union**
[9609/93 CK.4 and 9606/1/93 CK.4 REV 1 (f)]

When finalizing the documents mentioned under item 2, the Committee gave its views on the working parties responsible for implementing the action plans and priority work programmes.

4. **Amendment of the Council's Rules of Procedure in connection with the entry into force of the Treaty on European Union**
[CIRC 3672/93 and CIRC 3684/93]

The Committee exchanged views on CIRC 3684/93 and particularly on the Presidency's proposal regarding publication which appears on page 5 of that document.

On the basis of delegations' comments, the Presidency prepared the working document in Annex II hereto.

The Committee did not have time to examine that document.

5. **Racism and xenophobia**
- Review of the assessment [9864/93 CK.4 6]

The Committee agreed to the Council conclusions in the above document with a number of minor amendments.

It suggested that Coreper submit the conclusions to the Council meeting on 29 and 30 November 1993.

6. Asylum – Immigration

(i) Report on the progress of the Maastricht programme on asylum
[WGI 1654/93 REV 1 and 9924/93 ASILE 8]

The Committee agreed to the report on the progress of the Maastricht programme on asylum as set out in WGI 1654/93 REV 1 and decided to propose submitting it to the Council meeting on Justice and Home Affairs.

(ii) Implementation of the second paragraph of the Declaration on Asylum annexed to the Final Act of the Treaty on European Union
[9924/93 ASILE 8 and 9960/93 ASIM 8]

The Committee agreed to propose submitting the draft conclusions on the possible application of Article K.4 of the Treaty on European Union to asylum policy which appear in 10360/93 ASIM 21 to the Council for approval at its next meeting.

(iii) Means of proof in connection with the Dublin Convention
[9948/93 ASIM 5]

The Committee agreed to the draft conclusions on the means of proof in connection with the Dublin Convention. It decided to propose that they be submitted to the Council (JHA) at its meeting on 29 and 30 November 1993 as they appear in 10300/93 ASIM 19.

(iv) **Dissemination and confidentiality of joint reports**
[9942/93 CIREA 7]

The Committee took note of a statement by the Presidency to the effect that the CFSP is aware that, if joint reports appear in a dossier subject to an appeal, they may be made available to the parties involved, thereby indirectly becoming public, and the CFSP does not object to that.

In these circumstances, the Italian delegation withdrew its reservation.

The Committee agreed to propose that the method of dealing with dissemination and confidentiality of joint reports, as set out in 10298/93 CIREA 12, be submitted to the Council (JHA) on 29 and 30 November 1993.

(v) **Draft External Frontiers Convention**

The Committee agreed

- to delete this item from the Council agenda

- to provide for the possibility of having the Commission introduce its proposal on the implementation of Article 100c and its proposal on the revision of the External Frontiers Convention.

(vi) **Free movement of persons**

The Committee agreed

- to delete this item from the agenda

- to provide for a possible Commission communication on free movement of persons under "Other business".

In this connection, the Italian and Netherlands delegations wanted a clause on the jurisdiction of the Court of Justice inserted in the draft Convention in accordance with the last subparagraph of Article K.3(2).

(vii) **Readmission**

- **Principles governing readmission agreements with third countries [10008/93 ASIM 11]**

- **Link between Europe, association and co-operation agreements and third country practices with regard to readmission [10028/93 ASIM 12]**

With regard to the first sub-item, the Committee agreed on the guiding principles to be followed when a member country negotiates readmission agreements with one or more third countries. It therefore suggests that the Council adopt those principles at its meeting on 29 and 30 November.

On the second proposal, with regard to the inclusion of one or more provisions on readmission in the negotiating briefs, a number of delegations entered a provisional reservation in order to study the proposal in detail. Other delegations were in favour of the principle but stressed the need to examine its institutional and legal consequences. Two delegations (D/P) wondered if it was advisable to make the proposed link. The German delegation considered that the question of readmission should be separated from the

negotiating brief for co-operation agreements and should be the subject of a separate agreement. The link between the two could be made via the date of entry into force of the two agreements which should in principle be the same for both.

In view of the importance of this initiative which is in line with one of the requests made by the European Council on 29 October in relation to the question of the readmission of illegal immigrants, the Presidency suggested that the principle of whether or not a link should be created between co-operation agreements and practice in third countries with regard to readmission should be examined at the next Council meeting. The other institutional and legal aspects could be examined at a later stage.

7. **Police and customs co-operation**

- **Fight against terrorism [9837/93 ENFOPOL 28 and 10084/93 ENFOPOL 34]**

The Chairman informed the Committee of the situation with regard to the transmission of secret documents in this sensitive area. Pending a definitive solution to the problem, the current BDL system will continue to operate. At Council level, documents will be forwarded in an envelope to named individuals.

(ii) **Public order**

- **Liability of organizers of sporting events [10092/93 ENFOPOL 42]**

The Committee agreed to the draft Recommendation on the above question and decided to propose that the Council adopt it.

(iii) **Europol**

- **Establishment of the EDU and work of the Project Team [9609/1/93 ENFORC 1 REV 1]**

The Committee examined the above document. The outcome of its proceedings appears in 10363/93 ENFORC 12.

- **Draft Convention [9576/1/93 ENFORC 2 REV 1 and 9757/93 ENFORC 3]**

The Committee examined 9756/1/93 ENFORC 2 REV 1 and agreed to recommend to Coreper that the progress report on the draft Convention on the establishment of Europol be introduced at the Council meeting. The progress report appears in 9756/93 ENFORC 2 REV 2.

(iv) **Ecological crime [9840/93 ENFOPOL 31]**

The Committee agreed on the text in 10362/93 ENFOPOL 43.

(v) **Presidency's report on the Customs Information System Convention [9909/93 ENFOCUSTOM 2]**

The Committee

- was informed by the Presidency of the issues outstanding (management of the system, ratification, declaration by the Irish delegation on Article 14(2));

- instructed the Working Party on Customs Co-operation to resolve these questions and proceed to legal finalization of the text of the draft.

8. Judicial co-operation

(i) Interim report on the progress of talks on extradition [10201/92 JUSTPEN 9]

The Committee agreed to the interim report on the progress of talks on extradition which sets out the general trends which emerged from the proceedings on the matter to date.

The Committee decided to propose that the report be submitted to the Council on 29 and 30 November 1993.

(ii) International fraud – Draft Resolution by the Steering Committee on Judicial Co-operation on the protection of the Community's financial interests [10163/93 JUSTPEN 7]

The Committee agreed to the draft Resolution in 10163/93 JUSTPEN 7 and decided to propose that it be submitted to the Council on 29 and 30 November 1993.

(iii) Associating practitioners in judicial co-operation work and need to appoint liaison officers from among the judiciary

The Committee exchanged views on associating practitioners in judicial co-operation work in the light of earlier discussions on the subject (see 10213/93 JUST 5).

There was a broad consensus on the principle of promoting exchanges of experience and information in the field of judicial co-operation. However, most delegations confirmed the hesitations or doubts expressed in the course of earlier proceedings, particularly as regards the structure to be put in place.

Several delegations considered that examination of this issue, which should obviously continue, should not appear in the priority work programme for 1994.

In the light of these discussions and those which took place at the ministerial meeting in Limelette on 28 September 1993, the Presidency undertook to examine the way in which the question would be submitted to the Ministers.

9. **Community accession to the European Convention on Human Rights**

The Chairman reported on progress to date on this issue.

Several delegations considered that the matter was within the competence of the Council (General Affairs) and should not appear on the agenda for the Council (JHA).

While expressing a desire to have the matter also submitted to the Council (JHA), the Chairman stated that he would refer to his authorities.

10. **Report from the Horizontal Group on Data-Processing on the draft EIS Convention [9925/93 CK.4 7 and 9967/93 CK.4 8]**

The Committee expressed satisfaction at the work done to prepare the draft EIS Convention.

The Spanish delegation informed the Committee that it was currently reviewing its position on the scope of the draft Convention, particularly in the light of the conclusions adopted by the Ministers with responsibility for immigration at their meeting in Copenhagen on the draft External Frontiers Convention.

However, the Committee felt that since the documents cited were not available in several languages, it was not in a position to decide on the points outstanding.

It was therefore decided that the item would be deleted from the Council agenda and referred back to the Horizontal Group so that it could:

- continue its examination of the points outstanding;

- devote attention to the possible role of the Court of Justice in the application of the Convention;

- examine the question of whether application of the Agreement on the European Economic Area affected the draft text of the Convention;

- consider the application of Article K.3(2)(i) and the procedure for signing by the Member States.

11. Organized crime

The Committee agreed to forward 9908/2/93 CRIMORG 1 REV 2 to Coreper.

12. Traffic in human beings **[10085/93 ENFOPOL 35]**

The Committee's proceedings are summarized in 10085/1/93 ENFOPOL 35.

13. **Relations with third countries**

- Presidency note [10109/93 CK.4 11]

Several delegations did not want this item put on the agenda for the Council (JHA).

The Chairman stated that he would refer to his authorities.

14. **Draft reply to the letter relating to the International Centre for Migration Policy Development [10055/93 CK.4 9]**

The Committee did not have time to consider this draft.

15. **List of items likely to appear as "A" items on the Council agenda [10009/93 JAI 3]**

The list of "A" items proposed by the Committee appears in 10323/93 Pts A 66.

16. **Relations with the European Parliament**

- Presidency note [10108/93 CK.4 10]

The Committee did not have time to examine this item.

ITALIAN STATEMENT ON 9969/93 ASIM 9
OF 9 NOVEMBER 1993, POINT 2, SECOND INDENT (visas)

Since visa policy is normally primarily the responsibility of the Ministers for Foreign Affairs and is covered by Article 110C and not Title VI of the Treaty on European Union, the Italian delegation considers, in relation to the second indent of the above document, that the final decision on the lists of third countries whose nationals require visas should be a matter for the Ministers for Foreign Affairs within the General Affairs Council.

This does not alter the fact that, given that the issue is connected with the question of asylum and immigration, the K.4 Committee and in particular Steering Group I and its sub-groups are the bodies best qualified to prepare the list on the basis of the proposal which will be produced in due course by the Commission, with due regard for any indications given by the Ministers for Justice and Home Affairs.

ANNEX II

WORKING DOCUMENT

Subject: Progress of proceedings on draft Article 13 (publication)

Presidency's proposal	German delegation's proposal
1. The following shall be published in the Official Journal, for information, by the Secretary-General: (a) initiatives for conventions by any Member State on the basis of Article K.1 ([1]); (b) conventions adopted by the Council in accordance with Title VI of the TEU.	1. Conventions adopted by the Council in accordance with Title VI of the TEU shall be published in the Official Journal, for information, by the Secretary-General.
2. The Council shall decide unanimously on the publication, for information, by the Secretary-General of initiatives by any Member State for joint action, joint positions or conventions on the basis of Article K.1.	2. The Council shall decide on the publication in the Official Journal, for information, by the Secretary-General of initiatives by any Member State for joint action, joint positions or conventions on the basis of Article K.1.

([1]) Some delegations suggested adding "unless the Council decides otherwise".

3. (a) Joint action adopted by the Council on the basis of Article K.1(1) to (6) ([1]) shall be published in the Official Journal by the Secretary-General.

(b) The Council shall decide unanimously on the publication in the Official Journal by the Secretary-General of joint action it has adopted on the basis of Article K.1(7), (8) and (9) of the TEU ([1]).

4. The Council shall decide unanimously on the publication in the Official Journal by the Secretary-General of joint positions adopted by the Council ([2]).

5. Conventions drawn up by the Council in accordance with Title VI of the TEU shall be published in the form of a reference ([3]) in the Official Journal by the Secretary-General of the Council as soon as the formalities for their entry into force [and the measures implementing them] have been completed ([4]).

6. (a) Resolutions, recommendations or conclusions adopted by the Council in the fields covered by Article K.1(1) to (6) of the TEU shall be published in the Official Journal by the Secretary-General, unless the Council decides otherwise.

(b) The Council shall decide unanimously on the publication in the Official Journal by the Secretary-General of resolutions, recommendations or conclusions adopted by the Council in the fields covered by Article K.1 (7), (8) and (9) of the TEU ([5]).

([1]) Reservation by the Netherlands delegation.
([2]) In this instance, this means common positions established with a view to negotiations or international conferences.
([3]) The reference should include the date of entry into force.
([4]) Reservation by several delegations.
([5]) Reservation by the United Kingdom delegation.