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GROUPE AD HOC IMMIGRATION

AD HOC GROUP IMMIGRATION

Brussels, 6 October 1993 (08.10)
(OR. f)

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CONFIDENTIAL

Subject: Conclusion 24 regarding implementation of the common visa policy

- Note from the Belgian Presidency

[previous document: WGI 1545 REV 1]

The Belgian Presidency would like to thank the United Kingdom for its written contribution in response to the compromise proposal submitted at the meeting on 7 September 1993 (WGI 1545 REV 1).

The Presidency is retaining the basic idea that determination of the State of main destination is of fundamental importance and cannot be left to the judgment of some consular official or another.

On this point, the concern of the United Kingdom, Ireland and Denmark is echoed by the desire of the other nine countries for the main purpose of the journey to be defined as clearly as possible on the basis of the supporting documents produced by the visa applicant.

Discussions within the framework of both the nine and the twelve delegations have shown that the criterion of length of stay alone, adopted under the United Kingdom Presidency, cannot provide a solution in all cases, particularly those in which several destinations have to be taken into consideration, whether or not they are complementary.

The Presidency feels it would be useful to restate the criteria and principles adopted so far:

(1) The diplomatic mission competent to examine the visa application is that of the State of main destination.

(2) The criteria for determination of the State of main destination are the following:

- the reason for or purpose of the journey in the case of business trips, visits for sporting or cultural events or family visits;

- the length of stay if the reason for the journey is of another kind;

- the first State visited in the case of equal lengths of stay.

The Presidency accordingly proposes the following text:

> "Where several destinations are to be taken into consideration, whether or not they are a direct consequence or complement of one another, the diplomatic mission will be particularly careful to refer, among the supporting documents produced in order to determine the main purpose of the journey, to documents relating to business trips, cultural or sporting events or family visits.
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> If none of these reasons is apparent from the documents produced, the mission will take into account the destination of longest stay.
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> Where the length of stay is the same in a number of States, the first State visited will be considered to be the State of main destination."

The Presidency hopes that this text, which does not alter the normative content of the version agreed on by the nine delegations, will satisfy the other three.

Finally, the Presidency agrees to the suggestion that a formal hierarchy of reasons for travel should be established, to serve as a guide for diplomatic representations in cases where several destinations have to be taken into consideration, but suggests that this matter should not be the subject of a discussion at this stage in the proceedings and in the context of the drafting of these conclusions. As we have frequently stated, we are engaged in drawing up a legal text and not instructions for consulates. However, when drawing up a consular manual, it will be necessary to produce a more descriptive and completely unambiguous text.