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to : European Council

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Subject: Implementation of the Action Plan in the field of Justice and Home Affairs

A. INTRODUCTION

At its meeting on 10 and 11 December 1993, the European Council asked the Council (Justice and Home Affairs) to make a first report at the end of 1994 on the implementation of the action plan submitted to it by the JHA Council.

The European Council had in particular wanted to see rapid progress in six areas referred to in its conclusions, namely:

1. EUROPOL and the EUROPOL Drugs Unit
2. The fight against drugs
3. Right of asylum
4. Visas
5. Judicial cooperation
6. The link with the Union's external relations, especially as regards readmission.

This report follows the same presentation, and therefore does not cover all activities conducted in 1994. In addition to the information on progress in the areas mentioned, two further matters examined during the year are reported on:

7. The fight against racism and xenophobia
8. The fight against nuclear crime.

B. ACTIVITIES IN SPECIFIC SECTORS

1. EUROPOL AND THE EUROPOL DRUGS UNIT

(i) Draft EUROPOL Convention

On the basis of a text submitted at the end of June 1993, work on the draft Convention setting up EUROPOL was speeded up this year in order to attain the objective of its conclusion in 1994. The Greek and German Presidencies gave absolute priority to work on this text; under the German Presidency alone the Convention took up 30 days of meetings. The objective of the consultations was to set up EUROPOL as soon as possible and shape it as a particularly important instrument for the prevention and combating of organized crime, including terrorism.

The Working Party met over a period of forty days. On the basis, in particular, of the text submitted by the German Presidency, a series of technical problems were resolved, although significant differences of opinion remain on fundamental matters: the objectives of Europol (the role of liaison officers), the architecture of the system and some general questions, in particular appeals.

(ii) EUROPOL Drugs Unit (EDU)

On the basis of the ministerial agreement reached in Copenhagen on 2 June 1993, the EDU began its activities in The Hague in early 1994. With this precursor of EUROPOL, the Member States have at their disposal an instrument which considerably speeds up and facilitates exchanges of information between police forces in combating illegal drug trafficking and the money laundering associated with it, making use of relevant information from the customs authorities, and which thereby aids criminal investigations. Liaison officers from all the Member States of the European Union ensure that the relevant data are obtainable and can be transmitted to the offices requiring it in the shortest possible time.

2. THE FIGHT AGAINST DRUGS AND ORGANIZED CRIME

- (i) As part of the fight against **drugs**, activities took the following forms:
- **European Union Action Plan to combat drugs:** this contribution to a European plan to combat drugs, submitted by the Commission, has yet to be finalized. It was the subject of a detailed study, the conclusions of which will shortly be submitted to the Permanent Representatives Committee.
 - **European Monitoring Centre for Drugs and Drug Addictions:** this centre, the establishment of which is gradually progressing, will be required to play a decisive part in the work of analysing the situation and developing strategies to combat drug abuse ⁽¹⁾.
 - **The fight against illicit trafficking** comprises both measures at external frontiers (organization of controls) and the improvement of transfrontier cooperation between the Member States to combat drugs tourism. Work on developing a relevant strategy has begun and should be completed in 1995. This strategy against drugs is also contained in a contribution to the European Action Plan to combat drugs, still to be established.

⁽¹⁾ Reservation by the French delegation on the last four words.

- There should be recommendations, currently under examination, for the coordination and complementary character of police and customs activity.
- (ii) **Money laundering:** the proposals contained in the recommendations adopted by the competent Ministers on 2 June 1993 have largely been implemented by the Member States, except as regards the creation in each Member State of a central body for recording and analysing suspect transactions. Those Member States which are unable to set up central bodies have started to introduce appropriate equivalent measures. Furthermore – and in response to the desire expressed by the European Council that priority be given to practical steps – a very precise inventory of cooperation between police and customs administrations is being drawn up to determine how the exchange of information between Member States should be carried out, through effective cooperation between the central contact authorities.
- (iii) More generally, **organized crime** has been the subject of detailed analysis with a view to identifying the trends involved in its various forms. Besides the "traditional" forms of organized crime, such as traffic in human beings, illegal immigration networks, traffic in stolen vehicles and works of art, and environmental crime, other forms have appeared such as the theft of and illicit trafficking in radioactive or nuclear materials. Assessment of the situation and the national counter-measures currently applied by Member States enable common counter-measures to be taken in each of the different areas of crime and focal points for cooperation to be decided on. Some of the areas mentioned will also be included in EUROPOL's field of activity with effect from the entry into force of the future Convention.

3. ASYLUM POLICY

[The Council has adopted a Resolution on the definition of minimum guarantees for the procedure for examining asylum applications: this text, which gives refugees a guarantee of appropriate protection in accordance with the provisions of the 1951 Geneva Convention, has implications for the entry into force of the Dublin Convention, as the comparability and acceptance of Member States' asylum decisions will be enhanced. The Council agreed to prepare a separate Resolution on the guarantees to apply to the procedure for determining the Member State responsible under the Dublin Convention. Although the European Council had initially intended to base the Resolution on minimum guarantees on a "joint action", it emerged from the Council's discussions that both the subject matter and the views expressed by a large majority of Member States seemed, at this stage, to require a non-binding Resolution. Discussions have therefore continued on that basis, retaining the possibility of considering the adoption of a joint action at a later stage.]

The Dublin Convention determining the State responsible for Examining Applications for Asylum, signed in 1991, should enter into force very shortly as the last Member States are on the point of completing their ratification procedures.

In addition, work has continued on the question of harmonizing the application of the definition of "refugee" within the meaning of Article 1a of the 1951 Geneva Convention.

These complex discussions have not been concluded. The Council considers that they should be actively pursued in 1995.

4. VISA POLICY

(i) Facilitation of travel

Another important development in this area has been the proposal to facilitate travel for school children from third countries resident in a Union Member State. At its meeting in November the Council agreed to adopt a joint action in this area, which should prove to be a considerable help in resolving difficulties in this connection at border posts.

(ii) Establishment of a common list of non-member countries whose nationals require visas

The Commission's proposal for a Regulation based on Article 100c of the Treaty was received in December 1993. The European Parliament gave its Opinion on the proposal at its plenary session in April 1994.

Progress on this important area has been steady and much has already been achieved as regards the criteria to be adopted in establishing the list of countries whose nationals require a visa.

As agreement had been reached on a number of points which should appear in the final draft of the Regulation, the Presidency recently proposed a compromise formula.

(iii) Common visa format

The introduction of a common visa format will be an important step towards harmonization of visa policy. The common visa format must be suitable for use by all Member States and satisfy advanced technical requirements, especially with regard to protection against falsification and forgery.

This proposal, also based on Article 100c, was received from the Commission in August 1994. The European Parliament has yet to give its Opinion.

On the basis of what has already been achieved in the context of the Schengen Agreement, work has continued satisfactorily and it may be hoped that the Council will shortly be taking a decision once it has received the Opinion of the European Parliament and the differences of view on two issues (data protection and mutual recognition of visas) have been overcome.

5. JUDICIAL COOPERATION

(a) **Criminal matters**

1. Extradition

Discussions were held on the basis of the Council (JHA) statement on extradition (10773/93 JUSTPEN 14), adopted during the second half of 1993. They dealt with:

- the conditions and reasons for refusal of extradition;
- extradition procedures, especially the simplification of extradition decisions where the person concerned consents to his extradition.

Many delegations considered that priority should be given to work on simplified extradition.

Work should be continued in 1995 on the conditions and reasons for refusal of extradition, as well as on other ways of simplifying and speeding up procedures.

2. Judicial cooperation in the fight against international organized crime

The Council considered that cooperation in this area should be stepped up in the context of an area without frontiers as provided for in the Treaty, with a view to the safety of citizens.

As in the sphere of police cooperation, the situation in the Member States was examined as well as the most suitable ways of dealing with the problem.

In the light of these discussions, the Working Party drew up a preliminary report to the Council, setting out the guidelines to be followed for further work and the most appropriate fora for examination of the questions arising.

Discussions will continue in 1995.

3. Legal protection of the financial interests of the Community

Discussions initially centred on the comparative study, submitted by the Commission, of laws, regulations and administrative provisions relating to fraudulent acts committed to the detriment of the Community.

At the meeting on 20 June 1994, the Council (JHA) noted that this aspect of the work had largely been completed. It decided that discussions should be actively pursued on the basis of:

- the draft joint action submitted by the United Kingdom delegation;
- the draft Convention forwarded by the Commission.

At its meeting in June 1994 the European Council instructed the Council (JHA) to report back to it at its meeting in ESSEN in December on an agreement on the criminal aspects of combating fraud.

[The Council adopted a Resolution on the protection under criminal law of the financial interests of the Communities.

This Resolution is the first reflection of substantial agreement in a matter to which the Council attaches particular importance.

It must however be followed up by the drafting of a legal instrument, which should be finalized as soon as possible in 1995, on the basis of the proposals submitted by the United Kingdom and the Commission.

4. Disqualification from driving

On the basis of a questionnaire, the Working Party on Disqualification from Driving examined the Member States' legislation and practice regarding the suspension/withdrawal of the right to drive, imposed on drivers committing certain offences. On the basis of a synthesis of replies which is being prepared, consideration should be given to the question of whether additional measures are needed to ensure that driving disqualifications are enforced.

(b) Civil matters

1. Extension of the Brussels Convention

Following the instruction given by the European Council in December 1993, the Council examined the report on the possibility of a material extension of the Brussels Convention to matters of family and succession law.

At its meeting on 20 June 1994, the Council gave instructions for a draft Convention to be drawn up concerning marriage, (its existence, annulment and consequences), divorce, separation and related matters pertaining to matrimonial arrangements. The Council asked for the initial outcome of discussions to be submitted to it by the end of 1994 and for their completion in June 1995.

With this in view, the Presidency forwarded a draft Convention. The discussions at present under way will continue in 1995 in accordance with the deadline set by the Council. Questions concerning the custody of children that are ancillary to proceedings for the dissolution of marriages will also be examined in this context.

2. Simplification and acceleration of procedures for the transmission of documents

The European Council requested that an examination be made of the extent to which it might be necessary to enact an instrument in this area.

An inventory of the positions of the Member States will be completed very shortly. Discussions will continue on that basis in 1995.

6. LINK WITH THE UNION'S EXTERNAL RELATIONS, ESPECIALLY AS REGARDS
READMISSION

A. Link with the Union's external relations

- (i) Relations with non-Community countries were pursued on the basis of earlier TREVI contacts. They were also extended to other countries. The Council is following a pragmatic course on this matter in order to avoid achievement of the common goal being impeded by excessive bureaucracy.
- (ii) Moreover, cooperation with the countries of Central and Eastern Europe is especially important in this area. Further to the conclusions of the Berlin Conference on 8 September 1994, which brought together the countries of Central and Eastern Europe and American, Canadian, Swiss and Moroccan experts, the European Union will broaden and deepen its cooperation in the areas of drug-trafficking, theft of and trafficking in radioactive and nuclear materials, trafficking in human beings, illegal immigration networks, trafficking in stolen vehicles and money-laundering. Work on this point can be concluded in 1995 within the framework of a cooperation strategy. Furthermore, in accordance with the Berlin Declaration, a list of measures which can be carried out in the short term has been drawn up and will enable effective cooperation to be undertaken with the States of Central and Eastern Europe.

B. Readmission

There has been good progress in the gradual harmonization of policies among Member States in this important field. In November 1993, under the Belgian Presidency, the Council agreed on a series of principles to be used by Member States when drawing up readmission agreements, whether bilateral or multilateral.

A standard text for a bilateral readmission agreement between a Member State and a non-Community country has been drawn up. The Council (JHA) reached agreement on this text at its meeting in November.

On the broader front, greater emphasis is now being placed on the link between Europe agreements (association or cooperation) and the practices on readmission, in particular of their own nationals, of non-Community countries. Further progress is required.

The Council once again asked the Permanent Representatives Committee to clarify questions relating to the link between the agreements concluded by the European Union and the problem of expulsion. The Council awaits a report on this subject at its meeting in (June) 1995.

7. THE FIGHT AGAINST RACISM AND XENOPHOBIA

The Corfu European Council laid down a detailed programme of work for the activities to be carried out in various sectors, including that of Justice and Home Affairs, to combat all forms of racism and xenophobia, including racist and xenophobic acts of violence, and work for tolerance and comprehension. Discussions in the context of the Third Pillar covered first of all judicial cooperation (comparative study of laws and the effects resulting from any divergencies) and police cooperation (recording and use of statistical data on racist and xenophobic incidents, exchange of information on cross-border activities, training of police officers, etc.).

In accordance with the conclusions of the Corfu European Council, these activities, together with those of the Consultative Commission and of other fora responsible for the study of this matter at the Council, are contained in a separate report.

8. THE FIGHT AGAINST NUCLEAR CRIME

This matter is also the subject of a separate report to the European Council: in view of the great increase in recorded cases of illegal traffic in radioactive or nuclear materials, the German Presidency has taken various initiatives to provide a practical and effective response to the problem, making use of the various instruments available to the European Union.

Discussions are to continue as part of an overall approach which includes prevention, nuclear non-proliferation and the investigation and prevention of illegal trafficking operations.

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- (²) The Belgian delegation, supported by the Netherlands and German delegations, entered a reservation on the deletion of the following text proposed by the Presidency during the discussions of the Article K.4 Committee:

C. FURTHER WORK

"The Council (JHA) intends to continue with the implementation of the action plan adopted in December 1993. It intends to continue to draw up work programmes on this basis, by bringing the previous plan up to date and supplementing it in order to take account of developments in problems in those areas for which it has responsibility."
