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EUROPEAN UNION
THE COUNCIL

Brussels, 28 May 1998

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LIMITE

CIREFI 13

NOTE

from: the Presidency

to: CIREFI

Subject: **External relations: Transatlantic Dialogue: Meeting between CIREFI experts and representatives of the United States of America and Canada: Removal of third-country nationals where a transit stop is necessary between the USA and Canada and Member States of the European Union**

1. With the growth of world-wide air traffic over recent decades there has been a consequent growth in the number of long-haul flights which require a transit stop. In terms of the Transatlantic Dialogue, a practical consequence is that it is sometimes difficult for passengers, including passengers being returned compulsorily to their own country, to fly direct from the United States of America or Canada to long-haul destinations (for example, in Asia or Africa) without a transit stop in a Member State of the European Union. Conversely, it is sometimes necessary for passengers flying from destinations in the European Union, including those being returned to their own country, to make a transit stop in the United States of America or Canada (for example, on long-haul flights to Central and South America or the Caribbean).

2. The need to transit an airport has implications for the immigration authorities removing the person and for the immigration authorities of the country in which a transit stop has to be made. For example, immigration authorities in the United States of America or Canada are sometimes obliged to set directions for the removal of a person to his country of origin which entails a transit stop in a Member State of the European Union. Conversely, the immigration authorities of a Member State of the European Union are sometimes obliged to set directions for the removal of a person which entails a transit stop in the United States of America or Canada. Such arrangements need to be properly managed with appropriate liaison between the immigration authorities of the removing and transit states in order to avoid potential difficulties in the transit state by, for example, the passenger becoming disruptive or making an unfounded application for asylum.

MEETING BETWEEN CIREFI EXPERTS AND REPRESENTATIVES OF THE UNITED STATES AND CANADA

COMMON PRINCIPLES OF BEST PRACTICE FOR EFFECTING REMOVALS IN TRANSIT BETWEEN THE USA AND CANADA AND MEMBER STATES OF THE EUROPEAN UNION

1. In effecting a removal in transit the sending State will have regard to the Convention on International Civil Aviation, subject to any differences lodged by individual signatories thereto.

2. Removals to the destinated country should be by direct non-stop flights wherever possible. Where there is no alternative to using a transit airport, overnight stops should be avoided as far as is possible and direct airside transfers utilised.

3. The sending State should provide notification to the State on the territory of which the transit takes place in accordance with procedures set out in the Convention on International Civil Aviation.

4. Where an escort is considered to be necessary, by the airline or by the sending State, this will be provided by government officials, wherever appropriate under national regulations, or by the operator which should use its own security personnel or, at its expense, hire personnel which it considers to be competent. The escort will be responsible for ensuring the onward removal of the returnee from the transit state.

5. Where a request has been made under paragraph 3 above, the requested State may make suitable reception arrangements in order to ensure departure to the State of destination, if it so wishes.

6. The sending State will guarantee the returnability to its territory of the returnee where it does not prove possible to effect the onward journey of the returnee from the State of transit, or where the returnee is returned to the State of transit from the country of destination.