

MEETINGS OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION

SUMMARIES AND COMMUNIQUÉS

OCTOBER 1986 – JUNE 1993

Summaries and texts are not available for all meetings

INFORMAL MEETING OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION, COUNTER-
TERRORISM AND DRUGS

LONDON
OCTOBER 20, 1986

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Informal meeting of Interior Ministers

2.4.7. Community Ministers responsible for immigration, counter-terrorism and drugs met informally in London on 20 October. The meeting was chaired by Mr Douglas Hurd, the UK Home Secretary. Lord Cockfield, Vice-President of the Commission with special responsibility for the internal market, attended.

On immigration Ministers reiterated their commitment to the objective of abolishing checks at internal frontiers but agreed that as a result there would have to be strict controls at the Community's external frontiers, a sharing of information between the national government departments responsible for these controls and consideration given to the coordination of visa policies and the right of asylum. Ministers decided to set up an *ad hoc* working group, serviced by the Council's General Secretariat, to examine these issues urgently.

Ministers also took note of the progress made in implementing the decisions taken by the Trevi Group¹ on 25 September to strengthen liaison between police forces and experts in counter-terrorism.

Finally, they agreed to step up cooperation, in liaison with the Pompidou group, on the prevention of drug abuse, the rehabilitation of drug addicts, aid to producer countries to combat the cultivation of toxic products, the strengthening of controls at external frontiers and liaison between the departments responsible for controlling drug traffic.

2.4.8. The Commission welcomed the clear link made by Ministers between concern about public order and the Single European Act² and achievement of the area without frontiers by 1992.

It agreed that the abolition of internal frontiers must go hand in hand with stricter controls at external frontiers and that the working group's remit should be coordinated with the measures needed to achieve the area without frontiers.

Conclusions on immigration

2.4.9. Ministers with responsibilities for immigration, counter-terrorism and drugs

and a Vice-President of the Commission meeting in London on 20 October agreed that:

1. It remains an agreed objective to provide for free movement in the Community within the terms of the Single European Act.²
2. Problems over terrorism, drug trafficking, other crime and illegal immigration must not be allowed to deflect the Community from this objective.
3. At the same time, as the European Council meeting in Brussels in March 1985 recognized, the goal of abolishing frontier formalities must remain compatible with the need to combat terrorism and drug trafficking.³
4. It is therefore essential to work towards a system of easing and ultimately abolishing frontier formalities for Community citizens that is not open to abuse; this points to:
 - (a) strict controls at the Community's external frontiers;
 - (b) coordination of visa policies;
 - (c) improved exchange of information between immigration services of Member States;
 - (d) sharing information on the steps already taken by Member States to prevent passports being issued under false pretences or their abuse if stolen and improved cooperation in future;
 - (e) consideration of the problems which arise from those seeking asylum.
5. The above considerations have implications for frontier controls operated on the basis of spot checks; there is scope for keeping under close review the operation of such systems in the light of the criteria laid down by heads of government.
6. To set up a high-level *ad hoc* working group of Member States composed of the closest advisers of Ministers in the field of immigration policy and, in so far as there is Community competence, representatives of the Commission; the Council

¹ The Trevi Group was set up in response to the proposal adopted at the Rome European Council in November 1975 that Ministers of the Interior or Justice (depending on each Member State's constitutional arrangements) should meet 'to discuss matters coming within their competence, in particular with regard to law and order': Bull. EC 11-1975, point 1104 (Other business).

² Supplement 2/86 — Bull. EC.

³ Bull. EC 3-1985, point 1.2.7.

MEETING OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION
MADRID
12 MAY 1989

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Immigration

2.3.6. The Ministers with responsibility for immigration met in Madrid on 12 May. Mr Bangemann was also present at the meeting. Overall political agreement was reached on the criteria for determining the Member State responsible for examining a request for asylum. This subject is to be covered by a Convention to be implemented before the end of 1992. Work also continued on visa policy and steps to deal with forged documents. Lastly, Ministers discussed transitional arrangements to be implemented shortly at the Community's internal frontiers.

Secretariat will assure the secretariat of the group; the group was charged to consider urgently:

- (a) improved checks at external Community frontiers;
- (b) the contribution which internal checks can make;
- (c) the role of coordination and possible harmonization of visa policies of Member States in improving controls;
- (d) the role and effectiveness of frontier controls at internal frontiers in the fight against terrorism, drugs, crime and illegal immigration;
- (e) exchange of information about the operation of spot check systems;
- (f) close cooperation to avoid the abuse of passports;
- (g) measures to achieve a common policy to eliminate the abuse of the right of asylum in consultation with both the Council of Europe and the UN High Commission for Refugees;
- (h) examination of ways in which the convenience of Community travellers can be improved without adding to the terrorist threat or the risks of illegal immigration, drug trafficking and other crime.

7. The working group should produce urgently a programme of work with dates for completion.

8. The work of the group should be coordinated with the work necessary to realization of the internal market.

Conclusions on drugs

2.4.10. Concerning drugs the following was agreed:

1. Ministers recalled the grave concern expressed by the European Council in The Hague about the serious problem of drug misuse.¹

2. Recognizing the importance of international cooperation in combating the drugs problem, they commended the efforts of those countries which have shown determination to stamp out production of, trafficking in and demand for drugs and welcomed the forthcoming International Conference on Drug Abuse and Illicit Trafficking.

3. They agreed that the Member States, in conjunction with the Community, had an important role to play in the international effort to combat drug production, trafficking and misuse. They

commended both the work done in the Pompidou Group by Council of Europe Member States in the areas of supply and demand for drugs, and the high degree of cooperation in the law enforcement field. They asked Member States and the Commission to examine whether the Community and its Member States could assist the work of the Pompidou Group in the following areas, whilst seeking to avoid the duplication of work being done in other forums:

- (a) measures to reduce demand for drugs especially among young people;
- (b) measures to improve the treatment and rehabilitation services for addicts.

4. They asked the Community and its Member States to consider action to ensure that bilateral and Community aid supports, as appropriate, a recipient country's efforts to combat drug abuse.

5. They also asked the Member States, with the Community where appropriate, to consider action in the following areas:

- (a) ensuring that legislation takes account of the need to maintain effective control over illicit drug trafficking, particularly at the Community's external frontiers;
- (b) mutual enforcement of confiscation orders relating to drug traffickers' assets;
- (c) building on the good cooperation which already exists between law enforcement agencies, by posting drugs liaison officers (DLOs) within the Member States, by Member States posting DLOs to other countries, and by supporting a world-wide directory of contacts for drugs-related messages; to this end Ministers asked Trevi working group III to examine the scope for building on existing arrangements to create a coordinated network of drug liaison officers to monitor developments in producer countries.

6. Ministers noted that cooperation on drugs control had become an increasingly significant element on the international political agenda and welcomed the programme of work which had been initiated by the Member States of the Community meeting in political cooperation.

7. Recognizing the significant contribution made by individual Member States to existing UN activities and international cooperation on drugs, Ministers considered that enhanced activity would help to develop a common approach by the Member States to drugs-related assistance and activities in certain drug producing and transit countries.

8. Ministers urged that Ambassadors of the Twelve accredited to the major drug producing countries be asked to prepare joint assessments of the situation in those countries and recommendations for further action by the Twelve.

MEETING OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION
PARIS
15 DECEMBER 1989

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Immigration

2.3.7. At their seventh meeting,² in Paris, on 15 December, the Ministers of the Community Member States with responsibility for immigration adopted a statement concerning the work carried out since 1986 with a view to ensuring the free movement of persons, as provided for in Article 8a of the Treaty. In particular, they welcomed the dialogue established with the Office of the UN High Commissioner for Refugees. They also took note of the progress with the preparations for a Convention concerning the Member States responsible for examining a request for asylum, on which agreement was reached in May,¹ and a Conven-

MEETING OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION
DUBLIN
15 JUNE 1990

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including the draft Convention on Asylum

MINISTERS CONCERNED
WITH IMMIGRATION

PRESS RELEASE

Dublin, 15 June 1990
7169/90 (Presse 96)

At their meeting in Dublin on 15 June 1990, Ministers concerned with immigration adopted the following declaration:

Ministers of the twelve Member States concerned with immigration, together with Mr Bangemann, Vice-President of the Commission of the European Community, met in Dublin on 15 June 1990 under the chairmanship of Mr Burke, the Minister of Justice of Ireland. This was the eighth of the meetings of Immigration Ministers held towards the end of each Presidency.

Ministers reviewed events and developments since their previous meeting held in Paris on 15 December 1989, and took stock of the work which lies ahead in furtherance of the programmes of measures agreed by the European Council in Madrid in June 1989 and in Strasbourg in December 1989.

They congratulated the Irish Presidency on its efforts to further the programme of work and on the results achieved, warmly welcoming the arrangements established for informing the European Parliament.

7169/90 (Presse 96)

Asylum

The Ministers noted that the eleven Member States could now agree to a Convention setting out procedures and criteria for determining the Member State responsible for examining an application for asylum. These eleven Member States signed the Convention on 15 June. The Convention reaffirms Member States' obligations to refugees under the Geneva Convention of 28 July 1951 as amended by the New York Protocol of 31 January 1967. It will ensure that a single Member State will be identified with responsibility for examining asylum applications. In particular, the Convention will avoid the possibility of refugees being sent from one Member State to another ("refugees in orbit"). The United Nations High Commissioner for Refugees has been consulted upon the terms of the draft Convention and has welcomed the prospects for a constructive dialogue on this subject. The Convention forms a significant step forward in the development of co-operation between Member States in immigration matters and an essential element in the programme of measures under development in the context of Article 8a of the Treaty.

Ministers asked for work to continue also in the Ad Hoc Working Group on Immigration on an inventory of Member States' asylum policies, with a view to achieving harmonization, and resolved to pursue this matter further at their next meeting.

Ministers resolved that the fruitful contact established on asylum matters with the United Nations High Commissioner for Refugees should be maintained. They also agreed upon the importance of adequately explaining to public opinion the measures developed in this field, so as to avoid misconceptions, and of taking into account concerns expressed.

Developments in Central and Eastern Europe

Ministers took note of the momentous changes which have been made and are continuing to take place in Central and Eastern Europe and resolved to adjust their policies as appropriate in response to these developments. As announced following the meeting of the General Affairs Council in May, Member States have jointly decided to lift their visa requirements for the German Democratic Republic. Member States' visa requirements for other countries will be kept under active review.

Draft Convention on the crossing of external borders of the Member States of the Community

This draft Convention is designed to secure uniform standards of control at the external borders of Member States in relation to persons wishing to enter the Community for a short stay, and a further degree of co-operation between Member States in matters concerning visas. The latter could, inter alia, facilitate travel of visa nationals to more than one Member State by reducing present formalities which require a separate visa for each country visited.

The European Council meeting at Strasbourg in December 1989 requested that efforts should be made to conclude a Convention by the end of 1990. Discussions on the draft Convention have continued under the Irish Presidency and are to be carried further forward before the end of June. Ministers expressed their wish, how that work on the Asylum Convention is successfully concluded, that the work of the Ad Hoc Working Group on Immigration should now be concentrated on the External Borders Convention so that it could be concluded in accordance with the wishes of the European Council.

During the discussions on this draft Convention Member States will define the rules for a system of information exchange on non-admissible persons. Proposals for a multilateral agreement on re-admission will also be examined.

Other immigration matters

Ministers discussed the growing importance of immigration issues in the Member States, and exchanged information about the measures taken by member States to combat illegal immigration. They also exchanged information on ways and means of ensuring the satisfactory integration of legal immigrants in their host societies. They took note of the work under way, at the request of the Strasbourg European Council, to complete an inventory of national positions on immigration with a view to further discussion between Member States on this issue.

Contacts with the European Parliament

Ministers reiterated their intention of keeping public opinion informed of the principles involved in the policies they were following.

In particular, Ministers expressed satisfaction at the procedure for contacts with the European Parliament recommended by the Co-ordinators' Group on the Free Movement of Persons and adopted by the Council (General Affairs) at its meeting on 7 May.

2. Meeting of Ministers concerned with immigration

Public declaration

2.2.1. At their meeting in Dublin on 15 June 1990, Ministers concerned with immigration adopted the following declaration:

‘Ministers concerned with immigration from the 12 Member States, together with Mr Bangemann, Vice-President of the Commission of the European Communities, met in Dublin on 15 June 1990 under the chairmanship of Mr Burke, the Minister for Justice of Ireland. This was the eighth of the meetings of Immigration Ministers held towards the end of each Presidency.

The Ministers reviewed events and developments since their previous meeting held in Paris on 15 December 1989 and took stock of the future work which would be needed to make headway with the measures adopted by the European Council in Madrid in June 1989 and in Strasbourg in December 1989.

They congratulated the Irish Presidency on its efforts to further this programme of work and on the results achieved, warmly welcoming the arrangements established for informing the European Parliament.

Asylum

The Ministers noted that 11 Member States were in agreement on a Convention setting out procedures and criteria for determining the Member State responsible for examining an application for asylum. These 11 Member States signed the Convention on 15 June 1990. The Convention reaffirms Member States' obligations to refugees under the Geneva Convention of 28 July 1951 as amended by the New York Protocol of 31 January 1967. Under the terms of this Convention, a single Member State will be responsible for examining an asylum application. In particular, the Convention will avoid the possibility of asylum seekers being sent from one Member State to another (“refugees in orbit”). The United Nations High Commissioner for Refugees was consulted on the terms of the draft Convention and welcomed the prospects for a constructive dialogue in this field. The Convention constitutes a significant step forward in the development of cooperation between Member States in immigration matters and is an essential element in the programme of measures under preparation in the context of Article 8a of the Treaty.

The Ministers hoped that work on an inventory of Member States' asylum policies would continue also within the *ad hoc* Working Party on Immigration, with a view to achieving harmonization in this field, and decided to pursue this matter further at their next meeting.

The Ministers resolved that the fruitful contact established on asylum matters with the United Nations High Commissioner for Refugees should be maintained. They also agreed upon the importance of adequately explaining to the public the measures developed in this field, so as to avoid misconceptions, and of taking into account concerns expressed.

Developments in Central and Eastern Europe

The Ministers noted with approval the momentous changes which had occurred and were continuing to take place in Central and Eastern Europe and resolved to adjust their policies as appropriate in response to these developments. As announced after the meeting of the General Affairs Council in May, the Member States had decided jointly to waive visa requirements for nationals of the German Democratic Republic. Member States' visa requirements for other countries would be kept under active review.

Draft Convention on the crossing of external borders of the Member States of the Community

This draft Convention is designed to ensure uniform standards of control at Member States' external borders in relation to persons wishing to enter the Community for a short stay, and to increase cooperation between Member States in matters concerning visas. The latter aspect could, *inter alia*, facilitate travel of visa nationals to more than one Member State by reducing present formalities which require a separate visa for each country visited.

At its meeting in Strasbourg in December 1989, the European Council requested that efforts be made to conclude a Convention by the end of 1990. Discussions on the draft Convention continued under the Irish Presidency and further progress was expected to be made before the end of June. The Ministers hoped, now that work on the Asylum Convention had been successfully concluded, that the *ad hoc* Working Party on Immigration would

now devote its attention to the Convention on external borders so that it could be concluded in accordance with the wishes of the European Council.

During discussion of this draft Convention, the Member States were to lay down rules for a system of exchanging information on non-admissible persons. Proposals for a multilateral agreement on readmission would also be examined.

Other immigration matters

The Ministers discussed the growing importance of immigration issues in the Member States and exchanged information about the measures taken by Member States to combat illegal immigration. They also exchanged information on ways and means of ensuring the satisfactory integration of legal immigrants into their host societies. They took note of the work carried out at the request of the Strasbourg European Council, aimed at establishing an inventory of national positions on immigration with a view to more detailed discussion between Member States on this issue.

Contacts with the European Parliament

The Ministers reiterated their intention of keeping the public informed of the principles involved in the policies they were pursuing.

In particular, the Ministers expressed satisfaction at the procedure for contacts with the European Parliament recommended by the Coordinators' Group on the Free Movement of Persons, adopted by the Council (General Affairs) at its meeting on 7 May.'

Rights of asylum

2.2.2. At the meeting of Immigration Ministers of the Member States of the European Communities, held in Dublin on 15 June, the Ministers signed the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities.

The text of the Convention is as follows:

'...

Having regard to the objective, fixed by the European Council meeting in Strasbourg on 8 and 9 December 1989, of the harmonization of their asylum policies;

Determined, in keeping with their common humanitarian tradition, to guarantee adequate protection to refugees in accordance with the terms of the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967 relating to the status of refugees, hereinafter referred to as the "Geneva Convention" and the "New York Protocol" respectively;

Considering the joint objective of an area without internal frontiers in which the free movement of persons shall, in particular, be ensured, in accordance with the provisions of the Treaty establishing the European Economic Community, as amended by the Single European Act;

Aware of the need, in pursuit of this objective, to take measures to avoid any situations arising, with the result that applicants for asylum are left in doubt for too long as regards the likely outcome of their applications and concerned to provide all applicants for asylum with a guarantee that their applications will be examined by one of the Member States and to ensure that applicants for asylum are not referred successively from one Member State to another without any of these States acknowledging itself to be competent to examine the application for asylum;

Desiring to continue the dialogue with the United Nations High Commissioner for Refugees in order to achieve the above objectives;

Determined to cooperate closely in the application of this Convention through various means, including exchanges of information,

Have decided to conclude this Convention and to this end have designated as their plenipotentiaries:

...

Who, having exchanged their full powers, found in good and due form,

Have agreed as follows:

Article 1

1. For the purposes of this Convention:
 - (a) Alien means: any person other than a national of a Member State;
 - (b) Application for asylum means: a request whereby an alien seeks from a Member State protection under the Geneva Convention by claiming refugee status within the meaning of Article 1 of the Geneva Convention, as amended by the New York Protocol;
 - (c) Applicant for asylum means: an alien who has made an application for asylum in respect of which a final decision has not yet been taken;

- (d) Examination of an application for asylum means: all the measures for examination, decisions or rulings given by the competent authorities on an application for asylum, except for procedures to determine the State responsible for examining the application for asylum pursuant to this Convention;
- (e) Residence permit means: any authorization issued by the authorities of a Member State authorizing an alien to stay in its territory, with the exception of visas and "stay permits" issued during examination of an application for a residence permit or for asylum;
- (f) Entry visa means: authorization or decision by a Member State to enable an alien to enter its territory, subject to the other entry conditions being fulfilled;
- (g) Transit visa means: authorization or decision by a Member State to enable an alien to transit through its territory or pass through the transit zone of a port or airport, subject to the other transit conditions being fulfilled.
2. The nature of the visa shall be assessed in the light of the definitions set out in paragraph 1, points (f) and (g).

Article 2

The Member States reaffirm their obligations under the Geneva Convention, as amended by the New York Protocol, with no geographic restriction of the scope of these instruments, and their commitment to cooperating with the services of the United Nations High Commissioner for Refugees in applying these instruments.

Article 3

1. Member States undertake to examine the application of any alien who applies at the border or in their territory to any one of them for asylum.
2. The application shall be examined by a single Member State, which shall be determined in accordance with the criteria defined in this Convention. The criteria set out in Articles 4 to 8 shall apply in the order in which they appear.
3. That application shall be examined by that State in accordance with its national laws and its international obligations.
4. Each Member States shall have the right to examine an application for asylum submitted to it by an alien, even if such examination is not its responsibility under the criteria defined in this Convention, provided that the applicant for asylum agrees thereto.

The Member State responsible under the above criteria is then relieved of its obligations, which are transferred to the Member State which expressed the wish to examine the application. The latter State shall inform the Member State responsible under the said criteria if the application has been referred to it.

5. Any Member State shall retain the right, pursuant to its national laws, to send an applicant for asylum to a third State, in compliance with the provisions of the Geneva Convention, as amended by the New York Protocol.
6. The process of determining the Member State responsible for examining the application for asylum under this Convention shall start as soon as an application for asylum is first lodged with a Member State.
7. An applicant for asylum who is present in another Member State and there lodges an application for asylum after withdrawing his or her application during the process of determining the State responsible shall be taken back, under the conditions laid down in Article 13, by the Member State with which that application for asylum was lodged, with a view to completing the process of determining the State responsible for examining the application for asylum.

This obligation shall cease to apply if the applicant for asylum has since left the territory of the Member States for a period of at least three months or has obtained from a Member State a residence permit valid for more than three months.

Article 4

Where the applicant for asylum has a member of his family who has been recognized as having refugee status within the meaning of the Geneva Convention, as amended by the New York Protocol, in a Member State and is legally resident there, that State shall be responsible for examining the application, provided that the persons concerned so desire.

The family member in question may not be other than the spouse of the applicant for asylum or his or her unmarried child who is a minor of under 18 years, or his or her father or mother where the applicant for asylum is himself or herself an unmarried child who is a minor of under 18 years.

Article 5

1. Where the applicant for asylum is in possession of a valid residence permit, the Member

States which issued the permit shall be responsible for examining the application for asylum.

2. Where the applicant for asylum is in possession of a valid visa, the Member State which issued the visa shall be responsible for examining the application for asylum, except in the following situations:

- (a) If the visa was issued on the written authorization of another Member State, that State shall be responsible for examining the application for asylum. Where a Member State first consults the central authority of another Member State, *inter alia* for security reasons, the agreement of the latter shall not constitute written authorization within the meaning of this provision.
- (b) Where the applicant for asylum is in possession of a transit visa and lodges his application in another Member State in which he is not subject to a visa requirement, that State shall be responsible for examining the application for asylum.
- (c) Where the applicant for asylum is in possession of a transit visa and lodges his application in the State which issued him or her with the visa and which has received written confirmation from the diplomatic or consular authorities of the Member State of destination that the alien for whom the visa requirement was waived fulfilled the conditions for entry into the State, the latter shall be responsible for examining the application for asylum.

3. Where the applicant for asylum is in possession of more than one valid residence permit or visa issued by different Member States, the responsibility for examining the application for asylum shall be assumed by the Member States in the following order:

- (a) the State which issued the residence permit conferring the right to the longest period of residency or, where the periods of validity of all the permits are identical, the State which issued the residence permit having the latest expiry date;
- (b) the State which issued the visa having the latest expiry date where the various visas are of the same type;
- (c) where visas are of different kinds, the State which issued the visa having the longest period of validity, or where the periods of validity are identical, the State which issued the visa having the latest expiry date. This provision shall not apply where the applicant is in possession of one or more transit visas, issued on presentation of an entry visa for another

Member State. In that case, that Member State shall be responsible.

4. Where the applicant for asylum is in possession only of one or more residence permits which have expired less than two years previously or one or more visas which have expired less than six months previously and enabled him or her actually to enter the territory of a Member State, the provisions of paragraphs 1, 2 and 3 of this Article shall apply for such time as the alien has not left the territory of the Member States.

Where the applicant for asylum is in possession of one or more residence permits which have expired more than two years previously or one or more visas which have expired more than six months previously and enabled him or her to enter the territory of a Member State and where an alien has not left Community territory, the Member State in which the application is lodged shall be responsible.

Article 6

When it can be proved that an applicant for asylum has irregularly crossed the border into a Member State by land, sea or air, having come from a non-member State of the European Communities, the Member State thus entered shall be responsible for examining the application for asylum.

That State shall cease to be responsible, however, if it is proved that the applicant has been living in the Member State where the application for asylum was made at least six months before making his application for asylum. In that case it is the latter Member State which is responsible for examining the application for asylum.

Article 7

1. The responsibility for examining an application for asylum shall be incumbent upon the Member State responsible for controlling the entry of the alien into the territory of the Member States, except where, after legally entering a Member State in which the need for him or her to have a visa is waived, the alien lodges his or her application for asylum in another Member State in which the need for him or her to have a visa for entry into the territory is also waived. In this case, the latter State shall be responsible for examining the application for asylum.

2. Pending the entry into force of an agreement between Member States on arrangements for crossing external borders, the Member State which authorizes transit without a visa through the transit zone of its airports shall not be regarded as

responsible for control on entry, in respect of travellers who do not leave the transit zone.

3. Where the application for asylum is made in transit in an airport of a Member State, that State shall be responsible for examination.

Article 8

Where no Member State responsible for examining the application for asylum can be designated on the basis of the other criteria listed in this Convention, the first Member State with which the application for asylum is lodged shall be responsible for examining it.

Article 9

Any Member State, even when it is not responsible under the criteria laid out in this Convention, may, for humanitarian reasons, based in particular on family or cultural grounds, examine an application for asylum at the request of another Member State, provided that the applicant so desires.

If the Member State thus approached accedes to the request, responsibility for examining the application shall be transferred to it.

Article 10

1. The Member State responsible for examining an application for asylum according to the criteria set out in this Convention shall be obliged to:

- (a) Take charge under the conditions laid down in Article 11 of an applicant who has lodged an application for asylum in a different Member State.
- (b) Complete the examination of the application for asylum.
- (c) Readmit or take back under the conditions laid down in Article 13 an applicant whose application is under examination and who is irregularly in another Member State.
- (d) Take back, under the conditions laid down in Article 13, an applicant who has withdrawn the application under examination and lodged an application in another Member State.
- (e) Take back, under the conditions laid down in Article 13, an alien whose application it has rejected and who is illegally in another Member State.

2. If a Member State issues to the applicant a residence permit valid for more than three months, the obligations specified in paragraph 1, points (a) to (e) shall be transferred to that Member State.

3. The obligations specified in paragraph 1, points (a) to (d), shall cease to apply if the alien concerned has left the territory of the Member States for a period of at least three months.

4. The obligations specified in paragraph 1, points (d) and (e), shall cease to apply if the State responsible for examining the application for asylum, following the withdrawal or rejection of the application, takes and enforces the necessary measures for the alien to return to his country of origin or to another country which he may lawfully enter.

Article 11

1. If a Member State with which an application for asylum has been lodged considers that another Member State is responsible for examining the application, it may, as quickly as possible and in any case within the six months following the date on which the application was lodged, call upon the other Member State to take charge of the applicant.

If the request that charge be taken is not made within the six-month time-limit, responsibility for examining the application for asylum shall rest with the State in which the application was lodged.

2. The request that charge be taken shall contain indications enabling the authorities of that other State to ascertain whether it is responsible on the basis of the criteria laid down in this Convention.

3. The State responsible in accordance with those criteria shall be determined on the basis of the situation obtaining when the applicant for asylum first lodged his application with a Member State.

4. The Member State shall pronounce judgment on the request within three months of receipt of the claim. Failure to act within that period shall be tantamount to accepting the claim.

5. Transfer of the applicant for asylum from the Member State where the application was lodged to the Member State responsible must take place not later than one month after acceptance of the request to take charge or one month after the conclusion of any proceedings initiated by the alien challenging the transfer decision if the proceedings are suspensory.

6. Measures taken under Article 18 may subsequently determine the details of the process by which applicants shall be taken in charge.

Article 12

Where an application for asylum is lodged with the competent authorities of a Member State by

an applicant who is on the territory of another Member State, the determination of the Member State responsible for examining the application for asylum shall be made by the Member State on whose territory the applicant is. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purpose of applying this Convention, be regarded as the Member State with which the application for asylum was lodged.

Article 13

1. An applicant for asylum shall be taken back in the cases provided for in Article 3(7) and in Article 10 as follows:

- (a) the request for the applicant to be taken back must provide indications enabling the State with which the request is lodged to ascertain that it is responsible in accordance with Article 3(7) and with Article 10;
- (b) the State called upon to take back the applicant shall give an answer to the request within eight days of the matter being referred to it. Should it acknowledge responsibility, it shall then take back the applicant for asylum as quickly as possible and at the latest one month after it agrees to do so.

2. Measures taken under Article 18 may at a later date set out the details of the procedure for taking the applicant back.

Article 14

1. Member States shall conduct mutual exchanges with regard to:

national legislative or regulatory measures or practices applicable in the field of asylum;

statistical data on monthly arrivals of applicants for asylum, and their breakdown by nationality. Such information shall be forwarded quarterly through the General Secretariat of the Council of the European Communities, which shall see that it is circulated to the Member States and the Commission of the European Communities and to the United Nations High Commissioner for Refugees.

2. The Member States may conduct mutual exchanges with regard to:

general information on new trends in applications for asylum;

general information on the situation in the countries of origin or of provenance of applicants for asylum.

3. If the Member State providing the information referred to in paragraph 2 wants it to be kept confidential, the other Member States shall comply with this wish.

Article 15

1. Each Member State shall communicate to any Member State that so requests such information on individual cases as is necessary for:

determining the Member State which is responsible for examining the application for asylum;

examining the application for asylum;

implementing any obligation arising under this Convention.

2. This information may only cover:

personal details of the applicant, and, where appropriate, the members of his family (full name — where appropriate, former name — nicknames or pseudonyms, nationality — present and former — date and place of birth);

identity and travel papers (references, validity, date of issue, issuing authority, place of issue, etc.);

other information necessary for establishing the identity of the applicant;

places of residence and routes travelled;

residence permits or visas issued by a Member State;

the place where the application was lodged;

the date any previous application for asylum was lodged, the date the present application was lodged, the stage reached in the proceedings and the decision taken, if any.

3. Furthermore, one Member State may request another Member State to let it know on what grounds the applicant for asylum bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. It is for the Member State from which the information is requested to decide whether or not to impart it. In any event, communication of the information requested shall be subject to the approval of the applicant for asylum.

4. This exchange of information shall be effected at the request of a Member State and may only take place between authorities the designation of which by each Member State has been communicated to the Committee provided for under Article 18.

5. The information exchanged may only be used for the purposes set out in paragraph 1. In each Member State such information may only be com-

municated to the authorities and courts and tribunals entrusted with:

determining the Member State which is responsible for examining the application for asylum;

examining the application for asylum;

implementing any obligation arising under this Convention.

6. The Member State that forwards the information shall ensure that it is accurate and up-to-date.

If it appears that this Member State has supplied information which is inaccurate or which should not have been forwarded, the recipient Member State shall be immediately informed thereof. They shall be obliged to correct such information or to have it erased.

7. An applicant for asylum shall have the right to receive, on request, the information exchanged concerning him or her, for such time as it remains available.

If he or she establishes that such information is inaccurate or should not have been forwarded, he or she shall have the right to have it corrected or erased. This right shall be exercised in accordance with the conditions laid down in paragraph 6.

8. In each Member State concerned, the forwarding and receipt of exchanged information shall be recorded.

9. Such information shall be kept for a period not exceeding that necessary for the ends for which it was exchanged. The need to keep it shall be examined at the appropriate moment by the Member State concerned.

10. In any event, the information thus communicated shall enjoy at least the same protection as is given to similar information in the Member State which receives it.

11. If data are not processed automatically but are handled in some other form, every Member State shall take the appropriate measures to ensure compliance with this Article by means of effective controls. If a Member State has a monitoring body of the type mentioned in paragraph 12, it may assign the control task to it.

12. If one or more Member States wish to computerize all or part of the information mentioned in paragraphs 2 and 3, such computerization is only possible if the countries concerned have adopted laws applicable to such processing which implement the principles of the Strasbourg Convention of 28 February 1981 for the protection of individuals, with regard to automatic processing of personal data and if they have entrusted an

appropriate national body with the independent monitoring of the processing and use of data forwarded pursuant to this Convention.

Article 16

1. Any Member State may submit to the Committee referred to in Article 18 proposals for revision of this Convention in order to eliminate difficulties in the application thereof.

2. If it proves necessary to revise or amend this Convention pursuant to the achievement of the objectives set out in Article 8a of the Treaty establishing the European Economic Community, such achievement being linked in particular to the establishment of a harmonized asylum policy and a common visa policy, the Member State holding the Presidency of the Council of the European Communities shall organize a meeting of the Committee referred to in Article 18.

3. Any revision of this Convention or amendment hereto shall be adopted by the Committee referred to in Article 18. They shall enter into force in accordance with the provisions of Article 22.

Article 17

1. If a Member State experiences major difficulties as a result of a substantial change in the circumstances obtaining on conclusion of this Convention, the State in question may bring the matter before the Committee referred to in Article 18 so that the latter may put to the Member States measures to deal with the situation or adopt such revisions or amendments to this Convention as appear necessary, which shall enter into force as provided for in Article 16(3).

2. If, after six months, the situation mentioned in paragraph 1 still obtains, the Committee, acting in accordance with Article 18(2), may authorize the Member State affected by that change to suspend temporarily the application of the provisions of this Convention, without such suspension being allowed to impede the achievement of the objectives mentioned in Article 8a of the Treaty establishing the European Economic Community or contravene other international obligations of the Member States.

3. During the period of suspension referred to in paragraph 2, the Committee shall continue its discussions with a view to revising the provisions of this Convention, unless it has already reached an agreement.

Article 18

1. A Committee shall be set up comprising one representative of the Government of each Member State.

The Committee shall be chaired by the Member State holding the Presidency of the Council of the European Communities.

The Commission of the European Communities may participate in the discussions of the Committee and the working parties referred to in paragraph 4.

2. The Committee shall examine, at the request of one or more Member States, any question of a general nature concerning the application or interpretation of this Convention.

The Committee shall determine the measures referred to in Article 11(6) and Article 13(2) and shall give the authorization referred to in Article 17(2).

The Committee shall adopt decisions revising or amending the Convention pursuant to Articles 16 and 17.

3. The Committee shall take its decisions unanimously, except where it is acting pursuant to Article 17(2), in which case it shall take its decisions by a majority of two-thirds of the votes of its members.

4. The Committee shall determine its rules of procedure and may set up working parties.

The Secretariat of the Committee and of the working parties shall be provided by the General Secretariat of the Council of the European Communities.

Article 19

As regards the Kingdom of Denmark, the provisions of this Convention shall not apply to the Faeroe Islands nor to Greenland unless a declaration to the contrary is made by the Kingdom of Denmark. Such a declaration may be made at any time by a communication to the Government of Ireland which shall inform the Governments of the other Member States thereof.

As regards the French Republic, the provisions of this Convention shall apply only to the European territory of the French Republic.

As regards the Kingdom of the Netherlands, the provisions of this Convention shall apply only to the territory of the Kingdom of the Netherlands in Europe.

As regards the United Kingdom the provisions of this Convention shall apply only to the United Kingdom of Great Britain and Northern Ireland. They shall not apply to the European territories for whose external relations the United Kingdom is responsible unless a declaration to the contrary is made by the United Kingdom. Such a declaration may be made at any time by a communication to the Government of Ireland, which shall inform the Governments of the other Member States thereof.

Article 20

This Convention shall not be the subject of any reservations.

Article 21

1. This Convention shall be open for the accession of any State which becomes a member of the European Communities. The instruments of accession will be deposited with the Government of Ireland.

2. It shall enter into force in respect of any State which accedes thereto on the first day of the third month following the deposit of its instrument of accession.

Article 22

1. This Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of Ireland.

2. The Government of Ireland shall notify the Governments of the other Member States of the deposit of the instruments of ratification, acceptance or approval.

3. This Convention shall enter into force on the first day of the third month following the deposit of the instrument of ratification, acceptance or approval by the last signatory State to take this step.

The State with which the instruments of ratification, acceptance or approval are deposited shall notify the Member States of the date of entry into force of this Convention.

In witness whereof, the undersigned plenipotentiaries have hereunto set their hands.

Done at Dublin this fifteenth day of June in the year one thousand nine hundred and ninety, in a single original, in the Danish, Dutch, English,

French, German, Greek, Irish, Italian, Portuguese and Spanish languages, the texts drawn up in each of these languages being equally authentic and being deposited in the archives of the Government

of Ireland which shall transmit a certified copy to each of the other Member States.

(...)'.

PRESS ~~RELEASE~~

Rome, 13 December 1990

10684/90 (Presse 225)

Subject: Official statement by the Ministers concerned with immigration

The Ministers concerned with immigration met in Rome on 7 December 1990 under the chairmanship of Mr SCOTTI, Minister for the Interior of the Italian Republic. This was the ninth official meeting of the Ministers concerned with immigration.

At the meeting the Ministers discussed the main events since their meeting in Dublin on 15 June 1990 and took stock of the work done to implement the conclusions adopted by the European Council at its Strasbourg and Dublin meetings.

Asylum

Owing to imminent political elections, which precluded any commitment on the part of the future Government, Denmark has been unable to sign the Convention laying down criteria determining the State responsible for examining applications for asylum lodged in one of the Member States, signed by the other EEC Member States in Dublin on 15 June 1990.

The Ministers hoped that Denmark would very soon be in a position to sign the Convention.

Borders

The Ministers expressed their satisfaction with the significant progress made by the Italian Presidency on the work on the draft Convention on the crossing of external borders.

The Ministers felt that, in spite of all the effort made, it would not be possible to sign the Convention before the end of 1990.

The Ministers accordingly adopted a statement agreeing to inform the European Council meeting in Rome on 14 and 15 December of the results of their proceedings, and decided to invite the ad hoc Group on Immigration and the sub-group on borders to continue discussing the problems outstanding, having regard to the measures that need to be taken to achieve an area without internal frontiers within the meaning of Article 8a of the Treaty establishing the European Economic Community.

Immigration

The Ministers discussed the problems arising in connection with immigration.

They established the outline of a common position of the twelve Member States for the ministerial Conference on the movement of persons coming from central and eastern European countries, which is to be held in Vienna on 24 and 25 January 1991, and for the Conference on North-South migration, to be held in Rome in March 1991.

Visas

The Ministers noted that nationals of 55 countries required visas for the EEC Member States taken as a whole.

They stressed the importance of establishing a common visa policy.

Contacts with the European Parliament, the countries of the Nordic Union and the Office of the UN High Commissioner for Refugees

The Ministers took note of statements by:

- the Irish Presidency on its contacts with the European Parliament following the procedure adopted in April;
- the Italian Presidency on its contacts with the countries of the Nordic Union and the Office of the UN High Commissioner for Refugees.

The Ministers called upon future Presidencies to continue those contacts.

Next meeting

The Ministers agreed to hold their next meeting in Luxembourg on 13 June 1991.

MEETING OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION
LUXEMBOURG
13 JUNE 1991

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Bulletin of the European Communities
No. 6, 1991, pp. 134-135

1.4.15. Six-monthly meeting of ministers with responsibility for immigration.

• References:

Conclusions of Luxembourg European Council: Bull. EC 6-1991, point 1.17

Commission communication on immigration and asylum: Bull. EC 10-1991, points 1.2.2.1 and 1.2.2.2

Previous meeting: Bull. EC 6-1991, point 1.4.9

Meeting held in The Hague on 2 December.
The ministers agreed to forward to the

Maastricht European Council their draft report on asylum and immigration. The report was drawn up at the request of the Luxembourg European Council. It is based *inter alia* on Commission communications on immigration and asylum. It contains a general survey of problems relating to immigration and asylum and sets out a proposed timetable for dealing with the questions which will have to be settled by the time of the entry into force of the Treaty on Political Union. The ministers also decided to look further into the question of deportation of illegal immigrants and to endeavour to establish procedures for dealing with critical situations in the event of large-scale migratory surges. Lastly, the ministers urged the Spanish and United Kingdom delegations to find a solution to the one remaining bilateral difficulty holding up signature of the draft Convention on the crossing of external frontiers.

2. Meeting of Ministers responsible for immigration

Public declarations

2.2.1. At their meeting in Luxembourg on 13 June the Ministers responsible for immigration adopted the following declaration:

“The Ministers concerned with immigration held their meeting on 13 June 1991 under the Presidency of Mr Fischbach, Minister for Justice of the Grand Duchy of Luxembourg, and attended by Mr Bange-mann, Vice-President of the Commission of the European Communities.

Immigration

The Ministers approved the procedure for implementing their decision of 28 March 1991 setting up a rapid consultation centre to deal with any problems which might be caused by large-scale migratory flows.

The Ministers welcomed the coordinated position of the Twelve at the International Conferences in Rome and Vienna.

Asylum

The Kingdom of Denmark has signed the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities.

The aim of this Convention is to deal with difficulties resulting from the movement of applicants for asylum from one State to another and to provide applicants for asylum with a guarantee that their application will be examined by one of the Member States.

The Ministers expressed the wish that this Convention be ratified as quickly as possible.

The Ministers also welcomed the interest shown in this Convention by certain third countries.

Border controls

The Ministers welcomed the substantial measure of agreement reached on the Convention of the Member States of the European Communities on the crossing of their external borders.

The Ministers discussed various ways of resolving the problems raised by certain States. They instructed the *ad hoc* Group on Immigration to finalize all the texts so that definitive agreement could be reached.

They agreed to do their utmost to ensure that the Convention was signed by 30 June 1991.

The Ministers referred to the situation arising from Denmark's membership of both the Nordic Passport Union and the European Communities, and they approved the solution reached following talks by the Troika of the *ad hoc* Group on Immigration with the member countries of the Nordic Union.

Visas

With regard to the coordinated visa policy pursued by the Member States, the Ministers assessed the situation and noted that the nationals of 61 countries were subject to a visa requirement by all the Member States.

Computerization

The Ministers took note of the work carried out with a view to setting up a single computerized system in this field.

The Ministers reaffirmed the link between finalization of such a computerized system and the drawing-up of an agreement concerning the protection of individuals with regard to automatic processing of personal data.

Forged documents

The Ministers took note of current or planned action to step up the fight against the use of forged documents.

Contacts with the European Parliament and the Office of the High Commissioner for Refugees

The Ministers took note of statements by:

- (i) the Italian Presidency on its contacts with the European Parliament;

(ii) the Luxembourg Presidency on its contacts with the Office of the High Commissioner for Refugees.

The Ministers asked future Presidencies to continue such contacts.

Next meeting

The Ministers concerned with immigration will meet in The Hague on 12 and 13 December 1991.'

2.2.2. Following their meetings in Luxembourg on 26 June and 1 July the Ministers responsible for immigration adopted the following declaration:

'The Ministers concerned with immigration, who reached broad agreement at their meeting on 26

June on the Convention of the Member States of the European Communities on the crossing of their external frontiers, were not able to conclude their discussions owing to a problem still outstanding with regard to Gibraltar. They, therefore, decided to 'stop the clock' and meet again in Luxembourg on 1 July, under the chairmanship of Mr Marc Fischbach, Minister for Justice.

This final difficulty could not be fully resolved at [the second] meeting, but the gap between positions was considerably narrowed. Eleven delegations recorded their agreement to the text of the Convention and the statements contained in the Final Act. However, internal consultations still have to be held by one delegation, which maintained a reservation on part of one Article and on one statement.

Agreement on this Convention is essential since it constitutes an important stage in establishing an area without internal borders in which freedom of movement for persons is ensured.'

MEETING OF
THE MINISTERS CONCERNED WITH IMMIGRATION

PRESS RELEASE

Luxembourg, 1 July 1991

7143/91 (Presse 120)

The Ministers concerned with Immigration, who had reached broad agreement at their meeting on 26 June on the Convention of the Member States of the European Communities on the crossing of their external frontiers, were not able to conclude their discussions owing to a problem still outstanding with regard to Gibraltar. They had therefore decided to "stop the clock" and meet again, under the chairmanship of Mr Marc Fischbach, Minister for Justice, on 1 July in Luxembourg.

This final difficulty could not be fully resolved at that meeting, but the gap between positions was considerably narrowed. Eleven delegations recorded their agreement to the text of the Convention and the statements contained in the Final Act. However, internal consultations still have to be held by one delegation, which maintained a reservation on part of one Article and on one statement.

The signing of the Convention is planned for 19 July 1991 in Luxembourg.

Agreement on this Convention is essential since it constitutes an important stage in establishing an area without internal borders in which freedom of movement for persons is ensured.

COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT

PRESS RELEASE

Voorschoten, 17 September 1991
8083/91 (Presse 150)

PRESS RELEASE

Meeting of the Troika of
Immigration/Trevi Ministers with Italy
on Tuesday 17 September 1991
at Voorschoten

At Italy's request the Troika of Immigration/Trevi Ministers held an extra meeting today. The reason for the talks was the pressure caused by the flow of Albanian immigrants which has been affecting Italy in the last few months.

The meeting, which was chaired by Mr E.M.H. Hirsch Ballin, the Netherlands Minister for Justice, was also attended by the Ministers for the Interior of the Netherlands and of Portugal, the Minister for Justice of Luxembourg, the Minister for the Interior of Italy and a member of the Commission of the European Communities.

Those attending the meeting showed understanding for the problems which Italy has been facing in the last few months. They also noted that there was an increasing migration flow to Western Europe both from Eastern Europe and from Africa and Asia. This calls for a common approach by the Member States of the European Communities.

The need was stressed to make early preparations in the ad hoc Group on Immigration for a discussion by the Immigration Ministers.

The participants greatly appreciated the Netherlands' initiative aimed at achieving harmonization of asylum policies and co-ordination of procedures.

They underlined the importance of rapid consultation of Member States as soon as common problems arise. It was stressed that careful monitoring of (potential) immigration flows was of great importance.

The Commission of the European Communities has meanwhile started work on the setting up of a monitoring body whose purpose would be to study those factors which lead to sudden immigration flows so that pre-emptive action can be taken.

The Netherlands Presidency fully supports this Commission initiative and invites all Member States to provide the Commission with the necessary information in the near future. This will enable the Community to conduct an effective immigration policy geared to current situations.

The Netherlands Presidency will consider, especially if new developments occur in the area of immigration from third countries, the convening of an informal meeting of Ministers responsible for immigration matters prior to the planned meeting in The Hague on 2 and 3 December 1991.

MEETING OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION
THE HAGUE
3 DECEMBER 1991

Summary text reproduced from the
Bulletin of the European Communities
No. 12, 1991, page 122

Full text of the communiqué in French as provided by the
Information Office of the European Commission
The Hague

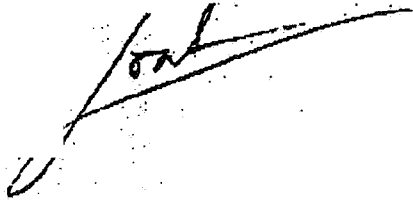
The poor quality of the text is due to its transmission by fax.

MEETING MINISTERS FOR IMMIGRATION AND TREV
2 AND 3 DECEMBER 1991 IN THE HAGUE

The Netherlands' Ministry of Foreign Affairs hosted this meeting which usually takes place twice a year.

On immigration matters, main topics were the presentation by the Ad Hoc Group Immigration of a working report concerning harmonization of asylum policies, the establishing of a "clearing house", and the introduction of an early warning system.

On police and security matters the Ministers agreed on establishing Europol. Furthermore the progress made so far in the activities agreed upon in the 1992 Programme of Action was discussed.



Bert-Jan JONKER
Office in the Netherlands
Commission of the European Communities

3 décembre 1991

Réunion des ministres de la CE chargés de l'immigration 2/3 décembre 1991

Les ministres de la CE chargés de l'immigration accordent beaucoup d'intérêt à l'harmonisation des politiques en matière de migration et d'asile politique et à leur coordination mutuelle entre les Etats membres. C'est la raison pour laquelle les ministres ont approuvé, lors de leur réunion semestrielle tenue ces lundi et mardi à La Haye, un programme de travail préparé au cours de ces derniers mois par le Groupe ad hoc Immigration.

La réunion des ministres de la CE était présidée par le ministre néerlandais de la Justice, Monsieur E.M.H. Hirsch Ballin. Les recommandations seront présentées au Conseil européen les 9 et 10 décembre à Maastricht.

Le rapport du Groupe ad hoc Immigration, un organe permanent de Hauts-Fonctionnaires chargés de l'immigration, fait état de propositions visant à harmoniser la politique en matière d'asile politique et d'autres points ne relevant pas de cette politique, tels que l'immigration illégale et le regroupement familial. Les ministres ont apprécié ce rapport qui a fait l'objet d'une discussion intense.

En ce qui concerne la politique en matière d'asile politique, le Groupe ad hoc a avancé des propositions visant à une approche commune de demandes d'asile politique "visiblement injustifiées" et des pays de "premier accueil". Selon les ministres de la CE, une demande d'asile politique peut être qualifiée de "visiblement injustifiée" lorsque le demandeur d'asile a par exemple introduit sa demande un peu auparavant dans un autre Etat membre de la CE. Le programme de travail proposé devra être mis en œuvre au cours des prochaines années.

Dans leurs conclusions de leur réunion de deux jours, les ministres estiment également qu'il est souhaitable de créer un centre d'information. Cette "clearing house" ne doit pas seulement rassembler l'information, mais doit également procéder à son analyse et fournir des renseignements. Les ministres ont en outre plaidé en faveur de l'introduction d'un système de prévention rapide dans les Etats membres de la CE, afin d'être en mesure de réagir à temps à l'arrivée imprévue et massive d'immigrants. Le Groupe ad hoc Immigration a la mission de prévenir les doubles initiatives en cette matière.

Il a été également décidé en ce qui concerne la politique menée en matière d'immigration d'atteindre une harmonisation sur les points suivants :

- lutte contre l'immigration illégale ;
- politique d'admission (regroupement familial) ;
- migration des travailleurs ;
- traités avec les pays d'origine, par exemple dans le domaine de la reprise de personnes en situation illégale ;

Les ministres ont en outre laissé réaliser une étude sur la possibilité d'accorder certains droits, déjà octroyés aux ressortissants de la CE, aux ressortissants de pays tiers domiciliés depuis un long nombre d'années dans un Etat membre.

Dans le cadre de la Convention de Dublin, les ministres de la CE ont également décidé de laisser réaliser une étude de faisabilité à propos d'un système européen d'empreintes digitales de demandeurs d'asile. Il a été demandé au Groupe ad hoc Immigration de conclure une telle étude au cours du premier semestre de 1992. Les ministres de la CE considèrent qu'un système européen peut se révéler un instrument utile en vue de combattre les doubles demandes d'asile ("asylum shopping") dans les Etats membres de la CE.

REUNION DES MINISTRES TREVI

Les ministres de la Communauté européenne responsables de la police et de la sécurité se sont réunis les 2 et 3 décembre à La Haye dans le cadre de leurs consultations semestrielles formelles. La réunion était présidée par les Pays-Bas, représentés par les ministres de la Justice, M. E.M.H. Hirsch Ballin, et de l'Intérieur, Mme C.J. Dalea.

Programme d'Action 1992

Outre l'évaluation habituelle de la menace terroriste en Europe, les ministres ont discuté de l'état d'avancement des activités convenues dans le Programme d'Action 1992. Ce programme, établi à Dublin en juin 1990, comprend un certain nombre de mesures spécifiques visant à élargir la coopération existant entre les Etats membres dans le domaine de la lutte contre le terrorisme et le trafic des stupéfiants ainsi que celle en matière de criminalité organisée. Le Programme d'Action a été élaboré dans le contexte de l'abolition des frontières intérieures au 1er janvier 1993.

Les ministres ont, dans cette optique, donné leur accord pour laisser réaliser une étude sur les relations existant entre la législation communautaire en matière de moyens de télécommunication et l'interception judiciaire des moyens de télécommunication au niveau national.

En ce qui concerne la prise de mesures contre la criminalité organisée, les ministres ont convenu d'étendre particulièrement la coopération à la criminalité écologique, au développement de l'analyse de la criminalité et à la lutte contre le "blanchiment d'argent sale".

Les Ministres ont également décidé de désigner dans les Etats membres des organes de contact dans le domaine du maintien de l'ordre public avec lesquels il sera possible de prendre contact assez rapidement si des désordres publics spécifiques prennent une dimension internationale. Les Ministres ont souligné à cet égard le droit fondamental de manifester.

Europol

Les ministres ont décidé de la création d'Europol. Ils ont approuvé un rapport qui esquisse les contours d'une organisation policière européenne (Europol) devant faciliter au niveau central la coordination et l'échange des données criminelles entre les Etats membres. Ce rapport a été élaboré à la requête du Conseil européen et sera transmis à ce dernier lors de sa réunion à Maastricht.

L'objectif d'Europol est de rassembler et d'analyser les données relatives à la criminalité transfrontalière, y compris la criminalité dépassant les frontières de la Communauté. Les ministres ont approuvé la proposition de créer une Unité Europol sur les stupéfiants en tant qu'étape initiale de l'établissement d'Europol. Cette unité devrait recueillir auprès des Etats membres et analyser au niveau européen les informations de haut intérêt pour la lutte contre le trafic des stupéfiants.

Cette étape est à mettre en relation avec la mise en oeuvre d'une décision antérieure des ministres TREVI visant à la création d'une Unité européenne de renseignements en matière de stupéfiants (UERS). Le champ d'activités pourra donc être élargi étape par étape à d'autres formes de criminalité organisée. Il faudra alors concevoir des critères plus précis à cet effet.

Si le Conseil européen reprend cette proposition, les Ministres TREVI établiront un programme d'action détaillé pour l'établissement de l'Unité Europol sur les stupéfiants, de sorte qu'elle puisse être une réalité d'ici la fin 1992.

COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT

PRESS ~~RELEASE~~

7273/92 (Presse 115)

MEETING OF THE MINISTERS WITH RESPONSIBILITY FOR IMMIGRATION

Lisbon, 11 June 1992

I. The Ministers with responsibility for Immigration met under the chairmanship of Mr DIAS LOUREIRO, Minister for Internal Affairs of the Portuguese Republic. The meeting was attended by Mr BANGEMANN, Vice-President of the Commission.

II. ABOLITION OF BORDER CHECKS

The Ministers noted the Commission representative's presentation of the communication, approved by the Commission on 8 May 1992, on the abolition of border checks.

They discussed the accompanying measures referred to in the Palma document which are designed to bring about the free movement of persons, and stressed the need to apply those measures effectively in order to maintain a sufficiently high level of security within the Community.

III. SITUATION IN BOSNIA-HERZEGOVINA

On the initiative of their colleagues from Germany and Italy, the Ministers discussed the situation in Bosnia-Herzegovina and its consequences with regard to population movements.

They exchanged information on measures taken or envisaged by the Member States and the Community to deal with the situation.

They agreed to continue their contacts on the matter, in particular through the Rapid Consultation Centre, which had already met on 18 and 19 May.

IV. ASYLUM

A. Ratification of the Dublin Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities

The Ministers noted that two Member States had ratified.

As the Convention is an essential instrument for the implementation of Article 8a of the EEC Treaty, the Ministers agreed to direct their efforts towards ensuring that, if possible, all other Member States ratified the Convention by the end of 1992.

They took steps to ensure that the Convention would actually be implemented quickly following its entry into force.

B. Harmonization of asylum policies

The Ministers welcomed the progress made as regards the definition of "first host country".

In the light of certain reservations, the Ministers instructed the ad hoc Group to continue examining the issue. They also asked it to widen its discussion to the general problem of the host third country.

C. Assessment of the situation in third countries

Sound knowledge of the situation in third countries is a particularly important factor in assessing individual applications for asylum. Political Co-operation was asked to compile joint reports in order to help provide uniform documentation in this connection.

D. Centre for Information, Research and Exchange on Asylum (clearing house)

The Ministers adopted a Decision setting up the Centre within the General Secretariat of the Council. Thanks to the exchanges and contacts which will be organized within it, it will enable the objective of harmonization of asylum policy to be brought a stage nearer.

The Ministers asked the Centre to focus initially on the compulsory exchange of information resulting from the Dublin Convention.

E. Extension of the Dublin Convention

The Ministers approved a preliminary draft Convention extending the Dublin Convention to third countries as a basis for negotiations. They instructed the Presidency to establish contacts with the third countries which were particularly interested in such a Convention, especially the EFTA Member States.

F. Continuation of discussions

The Ministers asked the ad hoc Group on Immigration to continue implementing the work programme submitted to and approved by the European Council at Maastricht, bearing in mind the deadlines set.

V. EXTERNAL FRONTIERS

A. Draft Convention of the Member States of the European Communities on the crossing of external frontiers

The Ministers took note of a statement by the Presidency, informing them that it had submitted a proposal for a compromise to the countries concerned by the last issue outstanding.

These countries are at present examining that proposal, and the Ministers expressed the hope that it would soon be possible to sign the Convention.

The Ministers supported the Presidency in its intention to continue its efforts in order to reach agreement very soon.

The Ministers took note of a Commission statement emphasizing the worrying situation that would arise should this Convention - which contains numerous measures considered essential in the Palma programme - not to be signed.

B. Centre for Information, Research and Exchange on the Crossing of Borders and Immigration (CIREFI)

The Ministers called for a feasibility study on the establishment of such a Centre to be submitted for their meeting in December 1992.

VI. ADMISSION - EXPULSION

The Ministers took note of the harmonization discussions on the subject of family reunification which had been initiated as a matter of priority, and called on the ad hoc Group on Immigration to submit a draft decision to them at their meeting in December 1992. They confirmed that the purpose of the harmonization discussions was to produce common principles on the basis of which Member States would undertake to make any necessary adaptations to their national law in order to bring it into line with those principles.

VII. VISAS

The Ministers took stock of the list of countries whose nationals are subject to visa requirements, and agreed to add the following countries to that list:

Armenia	Moldava
Azerbaijan	Uzbekhistan
Belarus	Russia
Georgia	Tajikistan
Kazakhstan	Turkmeinstan
Kyrgyzstan	Ukraine.

The Ministers decided to continue their consultations on the visa arrangements applicable to the Baltic States and the States which were formerly members of the Yugoslav Federation.

VIII. COMMON INSTRUCTIONS TO CONSULAR POSTS

The Ministers called for a consular manual to be drawn up, in conjunction with the bodies responsible for consular co-operation, covering in particular the requirements under the Dublin Convention and the draft Convention of the crossing of external frontiers, together with any other relevant data.

IX. EUROPEAN INFORMATION SYSTEM

The Ministers reiterated the importance they attached to the establishment of this system, which is needed to apply the Convention on the crossing of external frontiers.

X. TRAVEL DOCUMENT ABUSE

The Ministers welcomed the organization, with Commission backing, of a training seminar for instructors of staff responsible for checking travel documents.

XI. CONTACTS WITH THE EUROPEAN PARLIAMENT

The Ministers welcomed the formation within the European Parliament of a Committee on Civil Liberties and Internal Affairs and took note of a statement by the Portuguese Presidency on the contacts it had established with that Committee.

The Ministers said that, with regard to their co-operation to date as the Twelve, they had always kept their respective parliaments informed of the progress of such co-operation in the area of immigration and asylum.

Without prejudice to the application of the provisions of the Treaty on European Union, the Ministers propose to establish appropriate relations with the aforementioned parliamentary Committee.

XII. RELATIONS WITH NGOs

The Ministers noted a statement by the Presidency on the latter's talks with the Migrants Forum.

XIII. CONTACTS WITH THIRD COUNTRIES

The Ministers took note of the talks which the Presidency:

- had already held with Switzerland and Morocco;
- will be having with third countries on 12 June 1992.

XIV. NEXT MEETING

The Ministers agreed to hold their next meeting on 30 November and 1 December 1992 in London.

PRESS RELEASE

London, 30 November 1992

10518/92 (Presse 230)

**CONCLUSIONS OF THE MEETING OF THE MINISTERS
RESPONSIBLE FOR IMMIGRATION**

(London, 30 November - 1 December 1992)

I. The Ministers responsible for Immigration met in London under the chairmanship of Kenneth CLARKE, United Kingdom Home Secretary and with Mr BANGEMANN, Vice President of the Commission, attending.

II. IMMIGRATION POLICY

(a) The Ministers took note of the substantial progress made on the formulation of a draft Resolution on the harmonization of national policies on family reunification. They requested the Ad Hoc Group on Immigration to undertake further work with a view to reaching agreement on a finalised text by the next Ministerial meeting.

The Ministers noted that progress had been made as regards the harmonization of national policies on admission for the purposes of employment; they

requested the Ad Hoc Group on Immigration to complete its work by the next Ministerial meeting.

- (b) The Ministers approved a Recommendation regarding practices followed by Member States on expulsion of people unlawfully present in their territories. This Recommendation is based on the practices existing in the Member States and is without prejudice to either Community law or the provisions of international conventions on extradition.
- (c) The Ministers approved a Recommendation on transit for the purposes of expulsion. They asked the Ad Hoc Group on Immigration to undertake further work during the Danish Presidency on the detailed arrangements for facilitating as far as possible the implementation of this Recommendation.

III. ASYLUM

A. Important decisions were taken, after considering the opinion of the UNHCR, with a view to harmonising asylum policies.

- (a) Resolution on manifestly unfounded applications for asylum *)

The Ministers adopted this Resolution and wanted the possibility to be examined of giving practical effect to its principles in the form of a binding convention.

In this connection, the Ministers reaffirmed their determination, in keeping with their common humanitarian tradition, to guarantee adequate protection to refugees in accordance with the terms of the Geneva Convention of 28 July 1951, as amended by the New York

*) See for text Resolution Annex I:

2. Member States may include within an accelerated procedure (where it exists or is introduced), which need not include full examination at every level of the procedure, those applications which fall within the terms of paragraph 1, although an application need not be included within such procedures if there are national policies providing for its acceptance on other grounds. Member States may also operate admissibility procedures under which applications may be rejected very quickly on objective grounds.

3. Member States will aim to reach initial decisions on applications which fall within the terms of paragraph 1 as soon as possible and at the latest within one month and to complete any appeal or review procedures as soon as possible. Appeal or review procedures may be more simplified than those generally available in the case of other rejected asylum applications.

4. A decision to refuse an asylum application which falls within the terms of paragraph 1 will be taken by a competent authority at the appropriate level fully qualified in asylum or refugee matters. Amongst other procedural guarantees the applicant should be given the opportunity for a personal interview with a qualified official empowered under national law before any final decision is taken.

5. Without prejudice to the provisions of the Dublin Convention, where an application is refused under the terms of paragraph 1 the Member State concerned will ensure that the applicant leaves Community territory, unless he is given permission to enter or remain on other grounds.

No substance to claim to fear persecution

6. Member States may consider under the provisions of paragraph 2 above all applications the terms of which raise no question of refugee status within the terms of the Geneva Convention. This may be because:

- (a) the grounds of the application are outside the scope of the Geneva Convention : the applicant does not invoke fear of persecution based on his belonging to a race, a religion, a nationality, a social group, or on his political opinions, but reasons such as the search for a job or better living conditions;
- (b) the application is totally lacking in substance : the applicant provides no indications that he would be exposed to fear of persecution or his story contains no circumstantial or personal details;
- (c) the application is manifestly lacking in any credibility: his story is inconsistent, contradictory or fundamentally improbable.

7. Member States may consider under the provisions of paragraph 2 above an application for asylum from claimed persecution which is clearly limited to a specific geographical area where effective protection is readily available for that individual in another part of his own country to which it would be reasonable to expect him to go, in accordance with Article 33.1 of the Geneva Convention. When necessary, the Member States will consult each other in the appropriate framework, taking account of information received from UNHCR, on situations which might allow, subject to an individual examination, the application of this paragraph.

8. It is open to an individual Member State to decide in accordance with the conclusions of Immigration Ministers of 1 December 1992 that a country is one in which there is in general terms no serious risk of persecution. In deciding whether a country is one in which there is no serious risk of persecution, the Member States will take into account the elements which are set out in the aforementioned conclusions of Ministers. Member States have the goal to reach common assessment of certain countries that are of particular interest in this context. The Member State will nevertheless consider the individual claims of all applicants from such countries and any specific indications presented by the applicant which might outweigh a general presumption. In the absence of such indications, the application may be considered under the provisions of paragraph 2 above.

Deliberate deception or abuse of asylum procedures

9. Member States may consider under the provisions of paragraph 2 above all applications which are clearly based on deliberate deceit or are an abuse of asylum procedures. Member States may consider under accelerated procedures all cases in which the applicant has, without reasonable explanation:

- (a) based his application on a false identity or on forged or counterfeit documents which he has maintained are genuine when questioned about them;
- (b) deliberately made false representations about his claim, either orally or in writing, after applying for asylum;
- (c) in bad faith destroyed, damaged or disposed of any passport, other document or ticket relevant to his claim, either in order to establish a false identity for the purpose of his asylum application or to make the consideration of his application more difficult;

- (d) deliberately failed to reveal that he has previously lodged an application in one or more countries, particularly when false identities are used;
- (e) having had ample earlier opportunity to submit an asylum application, submitted the application in order to forestall an impending expulsion measure;
- (f) flagrantly failed to comply with substantive obligations imposed by national rules relating to asylum procedures;
- (g) submitted an application in one of the Member States, having had his application previously rejected in another country following an examination comprising adequate procedural guarantees and in accordance with the Geneva Convention on the Status of Refugees. To this effect, contacts between Member States and third countries would, when necessary, be made through UNHCR.

Member States will consult in the appropriate framework when it seems that new situations occur which may justify the implementation of accelerated procedures to them.

10. The factors listed in paragraph 9 are clear indications of bad faith and justify consideration of a case under the procedures described in paragraph 2 above in the absence of a satisfactory explanation for the applicant's behaviour. But they cannot in themselves outweigh a well-founded fear of persecution under Article 1 of the Geneva Convention and none of them carries any greater weight than any other.

Other cases to which accelerated procedures may apply

11. This Resolution does not affect national provisions of Member States for considering under accelerated procedures, where they exist, other cases where an urgent resolution of the claim is necessary, if it is established that the applicant has committed a serious offence in the territory of the Member States, if a case manifestly falls within the situations mentioned in Article 1.F of the 1951 Geneva Convention, or for serious reasons of public security, even where the cases are not manifestly unfounded in accordance with paragraph 1.

Further action

12. Ministers agreed to seek to ensure that their national laws are adapted, if need be, to incorporate the principles of this Resolution as soon as possible, at the latest by 1 January 1995. Member States will from time to time, in co-operation with the Commission and in consultation with UNHCR, review the operation of these procedures and consider whether any additional measures are necessary.

RESOLUTION

on manifestly unfounded applications for asylum

MINISTERS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES
responsible for Immigration, meeting in London on 30 November and
1 December 1992,

HAVING REGARD to the objective, fixed by the European Council
meeting in Strasbourg in December 1989, of the harmonization of
their asylum policies and the work programme agreed at the
meeting at Maastricht in December 1991;

DETERMINED, in keeping with their common humanitarian tradition,
to guarantee adequate protection to refugees in accordance with
the terms of the Geneva Convention of 28 July 1951, as amended by
the New York Protocol of 31 January 1967, relating to the Status
of Refugees;

NOTING that Member States may, in accordance with national
legislation, allow the exceptional stay of aliens for other
compelling reasons outside the terms of the 1951 Geneva
Convention;

REAFFIRMING their commitment to the Dublin Convention of 15 June
1990, which guarantees that all asylum applicants at the border
or on the territory of a Member State will have their claim for
asylum examined and sets out rules for determining which Member
State will be responsible for that examination;

AWARE that a rising number of applicants for asylum in the Member
States are not in genuine need of protection within the Member
States within the terms of the Geneva Convention, and concerned
that such manifestly unfounded applications overload asylum
determination procedures, delay the recognition of refugees in
genuine need of protection and jeopardize the integrity of the
institution of asylum;

INSPIRED by Conclusion No. 30 of the Executive Committee of the United Nations High Commissioner for Refugees;

CONVINCED that their asylum policies should give no encouragement to the misuse of asylum procedures;

MAKE THE FOLLOWING RESOLUTION :

Manifestly unfounded applications

1. (a) An application for asylum shall be regarded as manifestly unfounded because it clearly raises no substantive issue under the Geneva Convention and New York Protocol for one of the following reasons :

- there is clearly no substance to the applicant's claim to fear persecution in his own country (paragraphs 6 to 8) ; or
- the claim is based on deliberate deception or is an abuse of asylum procedures (paragraphs 9 and 10).

(b) Furthermore, without prejudice to the Dublin Convention, an application for asylum may not be subject to determination by a Member State of refugee status under the terms of the Geneva Convention on the Status of Refugees when it falls within the provisions of the Resolution on host third countries adopted by Immigration Ministers meeting in London on 30 November and 1 December 1992.

Protocol of 31 January 1967, relating to the Status of Refugees.

The Ministers also noted that a rising number of applicants for asylum in the Member States were not in genuine need of protection within the Member States within the terms of the Geneva Convention, and expressed their concern that such manifestly unfounded applications overloaded asylum determination procedures, delayed the recognition of refugees in genuine need of protection and jeopardized the integrity of the institution of asylum.

(b) Resolution concerning host third countries *)

The Ministers adopted this Resolution and expressed the hope that the possibility of these principles being embodied in a binding convention be examined.

The purpose of this Resolution, which sets down for the first time objective criteria for the application of the well-established principle of third host countries, is to meet the concern arising from the problem of refugees and asylum-seekers unlawfully leaving countries where they have already been granted protection or have had a genuine opportunity to seek such protection. By means of this Resolution, the Ministers agreed that a concerted response should be made to this problem, as suggested in Conclusion No. 58 on Protection adopted by the UNHCR Executive Committee at its 40th session (1989).

*) See for text Resolution Annex II.

(c) Countries in which there is generally no serious risk of persecution *)

The Ministers approved the report submitted to them by the Ad Hoc Group. The purpose of this report was to develop this concept in order to assist in establishing a harmonized approach to applications from the nationals of countries which give rise to a high proportion of clearly unfounded applications and to reduce pressure on asylum determination systems that are at present excessively burdened with such applications. This would help to ensure that refugees in genuine need of protection were not kept waiting unnecessarily long for their status to be recognized and to discourage misuse of asylum procedures.

B. Ratification of the Dublin Convention determining the State responsible for examining an application for asylum submitted in one of the Member States of the European Communities and the implementation of that Convention

The Ministers noted that four Member States had gone ahead with ratification.

Those Member States which had not yet ratified the Convention expressed their willingness to speed up the procedures so that this Convention could enter into force as soon as possible during 1993.

The Ministers signified their agreement to the conclusions aimed at implementing Articles 11 and 12 of the Dublin Convention and specifying the conditions for the transfer of asylum-applicants.

*) See for text Conclusions Annex III.

The Ministers took note with satisfaction of the Ad Hoc Group's report on the implementation of the Dublin Convention. They asked the Ad Hoc Group to continue its work on all the questions still unresolved linked to the practical arrangements for implementing the Convention.

C. Other questions concerning asylum

(a) Draft Convention parallel to the Dublin Convention

The Ministers noted that several countries had shown interest in the draft parallel Convention and that copies of the text had been forwarded to them. They noted that it was impossible to begin formal negotiations on accession to the parallel Convention until all the Member States had ratified the Dublin Convention.

(b) Establishment of a European automated fingerprint recognition system (EURODAC)

The Ministers took note of the progress report submitted by the Ad Hoc Group. They asked the Ad Hoc Group to expedite its work in this area.

(c) Centre for information, discussion and exchange on asylum (CIREA)

The Ministers noted with satisfaction that the Centre had held its first meeting. They welcomed the collaboration with Political Cooperation that had been introduced as regards evaluation of the situation in countries of origin, and the decision to

invite the Head of UNHCR Centre for Documentation to address the second meeting of the CIREA.

(d) Manual of European asylum practice

The Ministers approved the Ad Hoc Group's proposal about the production and updating of a European asylum practice manual.

IV. DRAFT CONCLUSIONS

(a) Developments at internal borders

Ministers discussed this issue, and informed each other of their intentions and plans in respect of controls at internal frontiers during the course of 1993.

(b) Draft Convention of the Member States of the European Communities on the crossing of external frontiers

The Ministers took note of the statements by the United Kingdom and Spain on the additional bilateral talks which had been held as part of the effort to resolve the last problem outstanding. They expressed their profound regret that no solution had yet been found and urged the parties concerned to intensify their efforts during the Danish Presidency.

(c) Centre for information, discussion and exchange on the crossing of borders and immigration (CIREFI)

The Ministers took note of the feasibility study on the CIREFI. They approved the establishment of this Centre.

(d) The Ministers took note of the progress made as regards the conclusions with a view to implementing the common visa policy provided for in the Convention on the crossing of external frontiers; they asked the Ad Hoc Group to submit a final text for approval at their next meeting.

(e) The Ministers asked the Ad Hoc Group to continue its discussions on the common list of visas and on transit visas and took note of the progress made as regards the list of visas required of holders of diplomatic or service-passports....

V. REFUGEES FROM FORMER YUGOSLAVIA *)

The Ministers stated that they are in principle willing to admit temporarily, on the basis of proposals made by UNHCR and the ICRC and in accordance with national possibilities and in the context of coordinated action by all the Member States persons from the former Yugoslavia. They agreed to establish a sub-group to consider the situation in the former Yugoslavia as it affected immigration matters.

VI. EUROPEAN INFORMATION SYSTEM

The Ministers noted the progress of the discussions with a view to drawing up a computerized list of non-

*) See for text Conclusions Annex IV.

admissible aliens. They reiterated the importance they attributed to the completion of this project.

VII. FORGED DOCUMENTS

The Ministers welcomed the holding in September 1992 of a training seminar intended for the instructors of staff responsible for examining travel documents.

VIII. CONTACTS WITH THE EUROPEAN PARLIAMENT

- (a) The Ministers took note of a statement by the Portuguese Presidency about the contacts which it had had at the last Ministerial meeting with the Chairman of the Committee on Civil Liberties and Internal Affairs.
- (b) The Ministers also took note of a statement by Mr CLARKE about the United Kingdom Presidency's contacts with that Committee.

IX. CONTACTS WITH THIRD COUNTRIES

The Minister took note of the Troika's contacts with:

- Canada and the United States
- Austria, Norway, Sweden and Switzerland
- Morocco

X. NEXT MEETING

1 and 2 June 1993 in Copenhagen.

RESOLUTION ON
A HARMONIZED APPROACH TO QUESTIONS
CONCERNING HOST THIRD COUNTRIES

Ministers of the Member States of the European Communities responsible for immigration, meeting in London on 30 November to 1 December 1992;

DETERMINED to achieve the objective of harmonizing asylum policies as it was defined by the Luxembourg European Council in June 1991 and clarified by the Maastricht European Council in December 1991;

TRUE to the principles of the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the Status of Refugees and in particular Articles 31 and 33 thereof;

CONCERNED especially at the problem of refugees and asylum seekers unlawfully leaving countries where they have already been granted protection or have had a genuine opportunity to seek such protection and CONVINCED that a concerted response should be made to it, as suggested in Conclusion No. 58 on Protection adopted by the UNHCR Executive Committee at its 40th session (1989);

CONSIDERING the Dublin Convention of 15 June 1990 determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the European Communities, and in particular Article 3(5) thereof, and WISHING to harmonize the principles under which they will act under this provision;

ANXIOUS to ensure effective protection for asylum seekers and refugees who require it;

MAKE THE FOLLOWING RESOLUTION

Procedure for application of the concept of host third country

1. The Resolution on manifestly unfounded applications for asylum, adopted by Ministers meeting in London of 30 November-1 December 1992, refers in paragraph 1(b) to the concept of host third country. The following principles should form the procedural basis for applying the concept of host third country:

- (a) The formal identification of a host third country in principle precedes the substantive examination of the application for asylum and its justification.
- (b) The principle of the host third country is to be applied to all applicants for asylum, irrespective of whether or not they may be regarded as refugees.
- (c) Thus, if there is a host third country, the application for refugee status may not be examined and the asylum applicant may be sent to that country.
- (d) If the asylum applicant cannot in practice be sent to a host third country, the provisions of the Dublin Convention will apply.
- (e) Any Member State retains the right, for humanitarian reasons, not to remove the asylum applicant to a host third country.

Cases falling within this concept may be considered under the accelerated procedures provided for in the aforementioned Resolution.

Substantive application : requirements and criteria for establishing whether a country is a host third country

2. Fulfilment of all the following fundamental requirements determines a host third country and should be assessed by the Member State in each individual case:

- (a) In those third countries, the life or freedom of the asylum applicant must not be threatened, within the meaning of Article 33 of the Geneva Convention.
- (b) The asylum applicant must not be exposed to torture or inhuman or degrading treatment in the third country.
- (c) It must either be the case that the asylum applicant has already been granted protection in the third country or has had an opportunity, at the border or within the territory of the third country, to make contact with that country's authorities in order to seek their protection, before approaching the Member State in which he is applying for asylum, or that there is clear evidence of his admissibility to a third country.
- (d) The asylum applicant must be afforded effective protection in the host third country against refoulement, within the meaning of the Geneva Convention.

If two or more countries fulfil the above conditions, the Member States may expel the asylum applicant to one of those third countries. Member States will take into account, on the basis in particular of the information available from the UNHCR, known practice in the third countries, especially with regard to the principle of non-refoulement before considering sending asylum applicants to them.

Dublin Convention

3. The following principles set out the relationship between the application of the concept of the third host country, in accordance with Article 3(5) of the Dublin Convention, and the procedures under the Convention for determining the Member State responsible for examining an asylum application:

- (a) The Member State in which the application for asylum has been lodged will examine whether or not the principle of the host third country can be applied. If that State decides to apply the principle, it will set in train the procedures necessary for sending the asylum applicant to the host third country before considering whether or not to transfer responsibility for examining the application for asylum to another Member State pursuant to the Dublin Convention.
- (b) A Member State may not decline responsibility for examining an application for asylum, pursuant to the Dublin Convention, by claiming that the requesting Member State should have returned the applicant to a host third country.
- (c) Notwithstanding the above, the Member State responsible for examining the application will retain the right, pursuant to its national laws, to send an applicant for asylum to the host third country.
- (d) The above provisions do not prejudice the application of Article 3(4) and Article 9 of the Dublin Convention by the Member State in which the application for asylum has been lodged.

Future action

4. Ministers agreed to seek to ensure that their national laws are adapted, if need be, and to incorporate the principles of this resolution as soon as possible, at the latest by the time of the entry into force of the Dublin Convention. Member States will from time to time, in co-operation with the Commission and in consultation with UNHCR, review the operation of these procedures and consider whether any additional measures are necessary.

CONCLUSIONS**on countries in which there is generally
no serious risk of persecution**

1. The resolution on manifestly unfounded applications for asylum (WGI 1282) includes at paragraph 1(a) a reference to the concept of countries in which there is in general terms no serious risk of persecution.

This concept means that it is a country which can be clearly shown, in an objective and verifiable way, normally not to generate refugees or where it can be clearly shown, in an objective and verifiable way, that circumstances which might in the past have justified recourse to the 1951 Geneva Convention have ceased to exist ⁽¹⁾.

Purpose

2. The aim of developing this concept is to assist in establishing a harmonized approach to applications from countries which give rise to a high proportion of clearly unfounded applications and to reduce pressure on asylum determination systems that are at present excessively burdened with such applications. This will help to ensure that refugees in genuine need of protection are not kept waiting unnecessarily long for their status to be recognized and to discourage misuse of asylum procedures. Member States have the goal of reaching common assessment of certain countries that are of particular interest in this context. To this end, Member States will exchange information

⁽¹⁾ Report from Immigration Ministers to the European Council meeting in Maastricht

within an appropriate framework on any national decisions to consider particular countries as ones in which there is generally no serious risk of persecution. In making such assessments, they will use, as a minimum, the elements of assessment laid down in this document.

3. An assessment by an individual Member State of a country as one in which there is generally no serious risk of persecution should not automatically result in the refusal of all asylum applications from its nationals or their exclusion from individualized determination procedures. A Member State may choose to use such an assessment in channelling cases into accelerated procedures as described in paragraph 2 of the resolution on manifestly unfounded applications, agreed by Immigration Ministers at their meeting on 30 November and 1 December 1992. The Member State will nevertheless consider the individual claims of all applicants from such countries and any specific indications presented by the applicant which might outweigh a general presumption.

Elements in the assessment

4. The following elements should be taken together in any assessment of the general risk of persecution in a particular country :

- (a) previous numbers of refugees and recognition rates. It is necessary to look at the recognition rates for asylum applicants from the country in question who have come to Member States in recent years. Obviously, a situation may change and historically low recognition rates need not continue following (for example) a violent coup. But in the absence of any significant change in the country it is reasonable to assume that low recognition rates will continue and that the country tends not to produce refugees.

- (b) observance of human rights. It is necessary to consider the formal obligations undertaken by a country in adhering to international human rights instruments and in its domestic law and how in practice it meets those obligations. The latter is clearly more important and adherence or non-adherence to a particular instrument cannot in itself result in consideration as a country in which there is generally no serious risk of persecution. It should be recognized that a pattern of breaches of human rights may be exclusively linked to a particular group within a country's population or to a particular area of the country. The readiness of the country concerned to allow monitoring by NGO's of their human rights observance is also relevant in judging how seriously a country takes its human rights obligations.
- (c) democratic institutions. The existence of one or more specific institutions cannot be a sine qua non but consideration should be given to democratic processes, elections, political pluralism and freedom of expression and thought. Particular attention should be paid to the availability and effectiveness of legal avenues of protection and redress.
- (d) stability. Taking into account the above mentioned elements, an assessment must be made of the prospect for dramatic change in the immediate future. Any view formed must be reviewed over time in the light of events.

5. Assessments of the risk of persecution in individual countries should be based upon as wide a range of sources of information as possible, including advice and reports from diplomatic missions, international and non-governmental organizations and press reports.

Information from UNHCR has a specific place in this framework. UNHCR forms views of the relative safety of countries of origin both for their own operational purposes and in responding to request for advice. They have access to sources within the UN system and non-governmental organizations.

6. Member States may take into consideration other elements of assessment than those previously mentioned, which will be reviewed from time to time.

CONCLUSION ON PEOPLE DISPLACED BY THE CONFLICT IN THE FORMER
YUGOSLAVIA

1. Ministers draw attention to the common position taken European Community and its Member States at the Conference organised under the auspices of the United Nations High Commissioner for Refugees in Geneva on 29 July 1992, namely:

- that large scale and permanent movements of people outside the former Yugoslavia are likely to encourage the inhumane and illegal practice of ethnic cleansing by extremists. This practice should not be permitted to undermine attempts to find a just and lasting solution to the problem of the former Yugoslav republic;
- that such a solution will not be assisted by the permanent large scale movements of people outside the boundaries of the former Yugoslavia;
- that, in line with the views of the UN High Commissioner for Refugees, displaced people should be encouraged to stay in the nearest safe areas to their homes, and that aid and assistance from the Member States should be directed towards giving them the confidence and the means to do so;
- that the burden of financing relief activities should be shared more equitably by the international community.

2. Ministers pay tribute to the work of the UN High Commissioner for Refugees in the former Yugoslavia and commit themselves to continue to co-operate with her office and other humanitarian agencies, in particular the International Committee of the Red

Cross, in alleviating the humanitarian aspects in former Yugoslavia. They recognise the growing urgency of the crisis taking into account in particular the effects of the winter.

3. The Community and its Member States have already responded positively to the request of the UN High Commissioner for Refugees to meet the urgent protection and other humanitarian needs of people—from the former Yugoslavia who have been compelled to leave their homes in search of safety. Ministers note in particular her request to States to respond by providing protection on a temporary basis to certain vulnerable categories of people within or at their borders who have been forced, by the conflict and violence, to flee from their homes, until such time as they can return safely, and will do their best to meet it.

4. Ministers welcome the fact that in most Member States special arrangements have now been put in place, consistent with national laws and procedures, to meet the special circumstances of those displaced by the conflict in former Yugoslavia. They undertake that they will respect the following guidelines:

- flexible application of visa and entry controls;
- readiness to offer protection on a temporary basis to those nationals of the former Yugoslavia coming direct from combat zones who are within their borders, and who are unable to return to their homes as a direct result of the conflict and human rights abuses;
- commitment not to return to areas in which they would be at risk such nationals of the former Yugoslavia who arrive at their frontiers;
- arrangements to permit individuals to work or to receive social benefits and gain access to

training programmes which will facilitate their return in due course;

- willingness to assist with the evacuation from the former Yugoslavia, in co-operation with UNHCR and the ICRC, of people with special humanitarian needs, within their national possibilities;
- provisions to assist with material assistance in supporting reception centres in the former Yugoslavia.

5. The Ministers state that they are in principle willing to admit temporarily on the basis of proposals made by UNHCR and the ICRC and in accordance with national possibilities and in the context of a co-ordinated action by all the Member States, persons from the former Yugoslavia who:

- have been held in a prisoners-of-war or internment camp and cannot otherwise be saved from a threat to life or limb;
- are injured or seriously ill and for whom medical treatment cannot be obtained locally;
- are under a direct threat to life or limb and whose protection cannot otherwise be secured.

The Ministers call upon the Presidency, in co-operation with UNHCR, to negotiate with other States, to create the necessary conditions to enable these States also to be involved in the reception of nationals of the former Yugoslavia in the context of temporary admission arrangements.

The Ministers have decided to set up a special sub-group under the ad hoc group concerning immigration with the purpose of considering the situation of refugees from the former Yugoslavia. The group will gather information on the legal basis of the different countries in particular their visa policies.

6. They welcome the view of the UN High Commissioner for Refugees that, where such temporary protection has been provided to people fleeing from the former Yugoslavia, States do not necessarily need to provide simultaneous access to individualised asylum procedures.

7. Ministers consider that not all nationals of the former Yugoslavia who travel abroad are necessarily in need of protection and they note the views of the United Nations High Commissioner for Refugees that situations may arise where protection may no longer be required for certain groups of persons while remaining essential for others. They welcome the readiness of the United Nations High Commissioner for Refugees to assist in assessing the continuing need for temporary protection, making full use of her office's presence and contacts throughout the former Yugoslavia. Ministers recognise, in common with the United Nations High Commissioner for Refugees, that practical arrangements and assistance may in due course be necessary to facilitate the return and re-integration of nationals who have been given temporary protection outside the boundaries of the former Yugoslavia. They confirm their willingness to co-operate with the appropriate agencies in the matter of return and re-integration.

PRESS RELEASE

Copenhagen, 2 June 1993

6712/93 (Presse 90)

MEETING OF THE MINISTERS RESPONSIBLE FOR IMMIGRATION

Copenhagen, 1/2 June 1993

Ministers with responsibility for Immigration met in Copenhagen under the chairmanship of Mrs Birte WEISS, Minister for the Interior of the Kingdom of Denmark, and in the presence of Mr VANNI d'ARCHIRAFI, Member of the Commission of the European Communities.

Ministers expressed their abhorrence at and concern about the attacks on immigrants and applicants for asylum which have taken place in several Member States, most recently the case of arson in Solingen, Germany.

The Ministers' discussions centred on the following points:

I. ASYLUM

(i) Progress with ratification of the Dublin Convention and implementation of it

Ministers noted that six Member States had completed ratification procedures (Denmark, Greece, Italy, Luxembourg, Portugal and the United Kingdom).

Those Member States with ratification procedures in progress expressed their willingness to do their utmost to enable the Convention to enter into force as soon as possible.

Ministers took note of the drawing-up of various documents in preparation for the implementation of the Dublin Convention.

(ii) Compilation of texts on European practice with respect to asylum

Ministers took note of the drawing-up, further to their decision in London, of a compilation of texts on European practice with respect to asylum.

(iii) CIREA

Ministers expressed satisfaction at the work of the CIREA (Centre for Information, Discussion and Exchange on Asylum). Ministers particularly welcomed the collaboration established with European Political Co-operation for the purpose of better assessing the situation in some third countries.

Ministers took cognizance of the first report on the CIREA's activities.

(iv) Convention parallel to the Dublin Convention

Ministers took note of a note from the Presidency on its talks with Austria, Finland, Norway, Switzerland, Sweden and Canada on the draft Convention parallel to the Dublin Convention.

Ministers noted that the Dublin Convention formed part of the "acquis" built up by intergovernmental co-operation between the twelve Member States in the field of justice and home affairs, which the acceding States were to accept. They therefore asked the Presidency to continue talks with a view to the conclusion in due course of a parallel Convention with other interested European States; negotiations proper could not take place until the Dublin Convention had been ratified by the twelve Member States.

II. DISPLACED PERSONS FROM THE FORMER YUGOSLAVIA

Ministers stressed the importance of the conclusions adopted by them in London on 30 November 1992. They examined documents drawn up further to the decision in question.

Ministers discussed the situation in the former Yugoslavia, after which they adopted a Resolution on certain guidelines as regards the admission of particularly vulnerable groups of persons from the former Yugoslavia.

In that Resolution, Ministers:

- emphasized that, in accordance with the approach of the United Nations High Commissioner for Refugees that protection and assistance should wherever possible be provided in the region of origin, they consider that displaced persons should be helped to remain in safe areas situated as close as possible to their homes, and that the efforts of the Member States should be aimed at creating safe conditions for these persons and sufficient resources for them to be able to remain in those areas;
- reaffirmed their willingness, in co-operation with the United Nations High Commissioner for Refugees, to admit, according to their possibilities, particularly vulnerable persons.

The Ministers have invited the Ad Hoc Group Immigration to continue its work on the various aspects of the above mentioned problems.

III. REPORT TO THE EUROPEAN COUNCIL ON FREE MOVEMENT OF PERSONS

Ministers agreed to the report to the European Council on the implementation of Article 8a of the Treaty of Rome with regard to free movement of persons. The report is to be submitted to the General Affairs Council so that it can be taken into consideration by that Council in preparations for the European Council meeting on 21 and 22 June 1993.

When considering the report :

- the Commission made the declaration that is in the annex to this Communiqué ;
- Ministers discussed present or planned relaxations of controls at internal borders and the situation at external frontiers.

IV. CONTROLS AT EXTERNAL FRONTIERS

(i) Draft Convention between the Member States of the European Communities on the crossing of their external frontiers

Ministers took note of statements by the Presidency, Spain and the United Kingdom on talks held in order to resolve the last problem outstanding and invited the Presidency and the delegations concerned to continue their efforts.

Ministers were informed of the possible implications of the Treaty on European Union and the EEA Agreement for the draft Convention on the crossing of external frontiers.

Ministers considered that any amendments to be made to the draft Convention should be technical in character and confined to what was strictly necessary.

(ii) Setting-up of the Centre for Information, Discussion and Exchange on the Crossing of Borders and Immigration (CIREFI)

Ministers noted that, following their decision in London, the CIREFI had begun work.

V. VISAS

(i) Conclusions regarding implementation of the common visa policy provided for in the draft Convention on the crossing of external frontiers

Ministers took note of work carried out and agreed to a number of conclusions designed to enable the Convention to be applied in practice upon its entry into force.

(ii) Visa requirements

Ministers noted that nationals of 73 third countries required visas for all Member States.

Pending entry into force of the Treaty on European Union, Ministers asked the ad hoc Group on Immigration to continue discussing the list.

VI. **ADMISSION: Resolution on harmonization of national policies on family reunification**

Ministers adopted the Resolution on the basis that the question of family reunification was already regulated to some extent by international conventions, to which Member States are parties, and by fundamental provisions of their national legislation. Due account was taken of obligations under such conventions and under national legislation in the process of increasing harmonization between Member States.

In adopting this resolution, Ministers also took into account the necessity to better control migratory flows into Member States' territories. This was one of the conditions for the successful integration of immigrants lawfully resident in Member States' territories.

VII. **EXPULSION: Recommendation concerning checks on and expulsion of third-country nationals residing or working without authorization**

Ministers agreed to the Recommendation.

The Recommendation is based on the need for common endeavours to combat illegal immigration, as reiterated by the European Council in Edinburgh. Ministers considered that this objective presupposes the improvement of means for checking on and expelling third-country nationals who are in an irregular situation.

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Subject to entry into force of the Treaty on European Union, Ministers agreed to meet on 29/30 November and 1 December 1993.

COMMISSION STATEMENT ON THE REPORT TO THE EUROPEAN COUNCIL IN COPENHAGEN ON THE IMPLEMENTATION OF ARTICLE 8 A OF THE TREATY OF ROME WITH REGARD TO THE FREE MOVEMENT OF PERSONS.

1. The last European Council in Edinburgh reaffirmed its commitment to the full and rapid implementation of Article 8 A and invited Ministers to accelerate their work, and to report back to the Copenhagen European Council. The Commission considers that the report which has now been prepared does not fully reflect the directions given at Edinburgh as regards acceleration of progress.
2. Article 8 A has not yet been implemented, and the situation described in The Report reveals a disappointing lack of progress on these three main compensatory measures which the Edinburgh European Council referred to as particularly needing further progress. The Dublin Asylum Convention has been ratified by only 6 Member States even though it is now some three years since it was opened for signature. The wording of the Report is limited to stating that the remaining Member States will ratify it "as soon as possible". There is no indication that this will be before the end of this year. The External Frontiers Convention has been blocked for the last two years over one outstanding problem and there are no signs that a solution is in sight or that negotiations are actively being pursued. Finally, the continuing negotiations at expert level on the European Information System are moving forward slowly and will require considerable impetus if the objective of signature by the end of 1993 is to be met.
3. The inevitable conclusion is that the free movement of persons is unlikely to be achieved this year, 12 months beyond the target date set in the Treaty. The Commission could not be satisfied with this outcome.
4. The Commission considers that the attention of the European Council should be drawn to the fact that the obligation to implement Article 8 A is overdue and that a timetable for completion of compensatory measures has not been set. The unhurried approach on which reliance continues to be placed is at variance with public opinion throughout the Community that 1993 is going to produce positive and tangible results regarding the abolition of border controls and the realisation of the free movement of persons. Real progress in the forthcoming months needs to be supported by greater political determination to meet the Treaty obligations. If such progress is not achieved, the Commission is determined to take appropriate action within the scope of its responsibility to ensure that the goals of Article 8 A in the area of the free movement of persons are realised.