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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT

ON IMMIGRATION AND ASYLUM POLICIES

FOREWORD - PURPOSE AND CONTENT OF THE COMMUNICATION

Immigration, together with the separate but related subject of asylum, has continued to occupy an increasingly prominent place in the political agenda of the European Union and its Member States. It gives rise to public and parliamentary debate of growing intensity, and occasionally is the focus of acts of violence totally out of character with Europe's traditions and laws.

There is increased recognition that the issues involved need to be tackled on a cooperative basis. That has found expression in the provisions of the Treaty on European Union which formally designates the subjects as being matters of common interest, to be addressed in the context of a single institutional framework.

That is as it should be. The deepening of the European integration process calls for an integrated and coherent response, which combines realism with solidarity, to the challenges which migration pressures and the integration of legal immigrants pose for the Union as a whole. Failure to meet those challenges would be to the detriment of attempts to promote cohesion and solidarity within the Union and could, indeed, endanger the future stability of the Union itself.

The Commission therefore looks to this Communication as a basis to stimulate a new and wide-ranging debate as to how the new possibilities which the Treaty on European Union creates can be used to provide the coordinated response necessary, and the framework, to guide the Union in its future work.

To that end the Communication takes account of the work already done and developments on the ground. In addition, it takes as its base a number of agreed starting points drawn from earlier discussion, in particular the need for a comprehensive approach which addresses the key components of an effective immigration policy:

- action on migration pressure, particularly through co-operation with the main countries of would-be emigration to Europe;
- action on controlling immigration in order to keep it within manageable structures;
- action to strengthen policies for legal immigrants.

The advantage of a comprehensive approach of that kind is that it enables control and admission measures to be matched by long-term co-operation with countries and regions of origin and an active policy of advancing the situation of those third country nationals already legally resident in the Union.

The Communication looks beyond the existing work programmes of the Union in the relevant areas in ways designed to complement those programmes. It seeks to be realistic while putting forward new ideas and a new emphasis on how policy objectives can be pursued in operational terms:

Action on the causes of migration pressure

The Communication argues that this requires ensuring that immigration and asylum policies are fully integrated into the Union's external policies, and that the various external policy instruments available to the Union are used to address the root causes of those pressures. That could involve action at a number of different levels such as in the areas of trade, development and co-operation policies, humanitarian assistance and human rights policies.

Effective action in this area also requires ensuring the availability of accurate information on current migration patterns and likely future trends.

Action on controlling migration flows

Action to control migration flows will also require a policy response at a number of levels. It will mean defining and implementing common approaches to admission policies as regards admission of workers, self-employed persons and students and the approximation of admission policies for humanitarian reasons. It calls for policies to deal more effectively with the problem of illegal immigration by way of preventive measures and measures to address the issue of persons illegally resident in the Community, with a particular focus on combatting illegal employment.

Policies in respect of refugees and other persons in need of international protection also need to be addressed but the Communication suggests that the focus here is of necessity different. The focus for the purpose of asylum policies should be on ensuring that the examination of asylum applications can continue to operate in a fair and efficient manner. The Communication also deals with new issues thrown up by the war in ex-Yugoslavia by way of the development of schemes for

temporary protection. It suggests that a Union committed to cooperative action could examine how best to show solidarity to help Member States caught in a front-line position in responding to such situations.

Action to strengthen integration policies for legal immigrants

The Communication stresses that action in this area remains an essential element of the wider need to promote solidarity and integration in the Union. What this requires will be to ensure that integration policies are directed in a meaningful way towards improving the situation of third country nationals legally resident within the Community by taking steps which will go further towards assimilating their rights with those of citizens of the Member States.

Strengthening integration policies will also involve action to create the right economic and socio-cultural conditions for successful integration by way, for example, of actions in the field of employment and education. Equally it requires promoting information and dialogue and combatting racial discrimination and all forms of racism and xenophobia.

The various ideas which the Commission invites the Parliament and Council to examine are set out in summary form in Chapter IV of the Communication in terms of a possible new framework for action by the Union. The ideas set out there are not intended to lay down a definitive work plan at this stage. They do, however, represent a coherent set of proposals which Member States and the Commission itself will want to consider in drawing up a long term action programme that is now required to take account of both the new challenges and new possibilities offered by European Union. The proposals contained in Chapter IV should therefore be regarded as ideas to be discussed and elaborated upon in the debate which the Commission would wish this Communication to launch.

Translating those ideas into action will represent the next phase. The Commission will equally seek to contribute to that process by using the various instruments at its disposal, both in relation to the Plan of Action adopted by the European Council in December 1993, and the new framework for action by the Union suggested in Chapter IV.

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1. INTRODUCTION - Background to Preparation of the Communication

1. In October 1991 the Commission submitted two separate Communications on the Right of Asylum and Immigration respectively (SEC(91)1855 final and SEC(91)1857 final). The purpose of this Communication is to develop further the ideas contained in those Communications against the background of the new possibilities created by the Treaty on European Union (TEU) in the fields of asylum and Immigration. The decision to submit two separate Communications in 1991 was intended to underline the humanitarian basis of asylum rights as distinct from questions raised by Immigration issues in general. This distinction is as valid today as it was then; but it has become increasingly difficult to examine either subject without reference to the other. In this Communication, therefore, both subjects are addressed in a single document without losing sight of the characteristics of each which continue to make them distinct in nature.
2. The Communication also deals, as did the 1991 Communication on Immigration, with the important issue of the measures now necessary to strengthen integration policies for the benefit of legal immigrants. It has long been recognised that immigration is not a temporary phenomenon and that assumptions to that effect which were sometimes current in the 1950s and 1960s were based on fundamental misconception as to the nature of the migration patterns which became established in the post-war period. More importantly, immigration has been a positive process which has brought economic and broader cultural benefits both to the host countries and the immigrants themselves. Some have called for a complete halt to immigration: this is neither feasible nor desirable: what is necessary is proper management of immigration policy. The Community has always been a multi-cultural and multi-ethnic entity whose diversity enriches the Community itself and benefits all its citizens, but not without creating challenges for society as a whole and its immigrant communities. A .. comprehensive approach needs, therefore, to take account of that fact and address the issue of the presence of those third country nationals and their families - which often include a second generation born in the Community - and of newly arrived immigrants in terms of integration policies.
3. The Commission's earlier Communications on Immigration and Asylum were tabled in response to the invitation from the Luxembourg European Council in June 1991 to Ministers responsible for Immigration to submit to the following meeting of Heads of State and Government in Maastricht proposals on the harmonisation of policy in these areas. That decision introduced a new dimension to Member States' co-operation in these fields. Hitherto the efforts of the Community and its Member States had been primarily directed towards preparing new forms of co-operation in immigration and asylum policies that would be needed to manage the frontier-free area due to come into existence on 1 January 1993. To this end, they had drawn to a successful conclusion the negotiations which had led to the signature of the Dublin Convention and the resolution of all questions related to the External Frontiers Convention, except that of its territorial application. The Luxembourg European Council's invitation

to Ministers to move beyond this important but clearly limited objective reflected not only the fact that the substantive work on this first phase was now virtually complete, but also a recognition that the geopolitical and socio-economic background against which immigration and asylum issues had to be viewed was changing rapidly and called for a different level of co-operation than before, moving beyond procedure into substance.

4. If the Luxembourg European Council decision represented an important turning point in the way in which the Community and its Member States approached co-operation in these areas, the entry into force of the Treaty on European Union constitutes an even more significant advance, introducing as it does a Treaty obligation to co-operate within a single institutional structure on matters now recognised formally as being of common interest. The possibilities offered by the coming into force of the TEU were recognised by the European Council at its meeting on 10 and 11 December in Brussels. On that occasion, the Council expressed its determination to use to the full those new possibilities. The Council also approved a Plan of Action drawn up by the Council of Ministers of Justice and Home Affairs and a work programme which includes a number of measures in the area of immigration and asylum which are to receive priority during 1994.
5. In addition to these important institutional developments within the Union, other relevant changes which have taken place since 1991 make this a good moment to look again at these subjects. Although one thing that has not changed is the continuing, indeed increasing, high level of political and public interest surrounding them, some recent developments have made the development of an effective approach on immigration and asylum even more urgent now than before. The tragedy of ex-Yugoslavia has opened up a range of refugee-related questions, both old and new, which need answers of a co-operative nature. Legislation in certain key countries has changed or is changing. Public opinion has been further perturbed by and reacted to a number of violent and well-publicised incidents involving immigrants and asylum seekers. The subject in general now forms part of much wider international debate going beyond the European Union and on to the agendas of the UN Agencies, the CSCE, the OECD, the Council of Europe, the G-7 and the Transatlantic dialogue.
6. Just as the Commission felt it right to contribute, through its Communications of October 1991 on Immigration and on the Right of Asylum, to the debate which led to the adoption at the Maastricht European Council of the existing work programmes in these areas, it now considers it appropriate to transmit this further Communication to the European Parliament and the Council in order to stimulate debate in the new framework of the TEU. The Communication takes stock of what has been achieved so far and identifies what remains to be done either within or going beyond those programmes. It therefore looks beyond the scope of the Plan of Action adopted by the European Council in December 1993, and offers a framework for a long-term strategy on immigration and asylum which it believes can

provide the basis for the comprehensive and active policies the Union needs in these fields. The Communication is confined to immigration and integration of third country nationals. With regard to citizens of the Member States, asylum as between Member States should in general not proceed, because all Member States of the Union are fully committed to the respect of human rights and fundamental freedoms.

7. The Communication is presented in two parts: a factual and a policy-oriented part. The factual part covers the following subjects:
- (a) the evolution of public and political perceptions of immigration and asylum issues, including suggestions on how these might be made less negative;
 - (b) the institutional changes which the TEU introduces;
 - (c) the factual changes on the ground in the sense of migratory movements and the extent to which these correspond with what was expected;
 - (d) changes in legislation and attitude in Member States and elsewhere;
 - (e) the state of progress in implementing the work programmes approved by the European Council in December 1991.

The Communication is supported by the following Annexes:

- Annex I: Description of main migratory flows;
- Annex II: Implementation of the 1991 work programme on asylum and immigration policies;
- Annex III: Recent developments in the Union;
- Annex IV: Recent developments in international fora.

II. FACTUAL DEVELOPMENTS

II.1. Evolution of public and political perceptions of immigration and asylum issues

8. The migration phenomenon is as old as the world, linked as it is to human nature. Europe itself experienced significant emigration during the 19th and early 20th centuries. The very large scale population movements which took place then were to benefit both the countries of destination and Europe itself.
9. That situation was reversed in the 1950s and 1960s when some European countries relied on immigration both from within Europe and from outside to meet their labour requirements. Those immigrants were in turn to make a significant contribution to the reconstruction of Europe and the economic expansion which followed. Workforce immigration was slowed down progressively in the face of the recessions caused by the oil crises of the 1970s and the possibilities for legal immigration to the Community were greatly reduced. Nevertheless, former EU-emigration countries started evolving slowly into de facto immigration ones. Taking such a long-term perspective, it should not be excluded that this process would once again be reversed and that in the long run, for example, for demographic reasons Europe would have to increase possibilities for legal immigration.
10. Today's debate in which immigration policy continues to have an important place on the political agenda needs to be seen against that longer term background. Western Europe has a well-established and solidly anchored tradition of respect for human values and social justice. At the same time, there has been something of a polarisation in the attitudes of different sectors of society towards the issue of new immigration and towards established immigrant communities. This development has been aggravated by the present economic situation which is characterised by high unemployment rates generating social tension.
11. The vast majority of people retain their positive attitudes towards non-nationals. Those attitudes are better reflected in the public protest marches against racist attacks than in such attacks themselves. There are also people who are genuinely concerned by the perception that large numbers of people are immigrating to Europe. This, however, is often based on feeling rather than facts. But equally, it is perhaps this perception which has played its part in the increase in the number and ferocity of racially motivated attacks which have scarred the immediate past.
12. This poses an increasing problem for governments. They must retain credibility with moderate people on both sides of the argument in a situation where anti-democratic elements have sought to exploit the immigration issue. To counter the dangers this poses, governments need to build on the public's tradition of tolerance, by putting more energetic emphasis on the benefits of immigration, both economic and social, while at the same time showing that immigration is under control by putting a coherent long-term strategy in place.

13. An essential element of such a strategy would be to ensure that the public is well-informed: public perceptions could be influenced by providing reliable information on actual and potential migratory flows. At present, such figures are primarily available concerning asylum applicants. As a consequence, the public debate tends to concentrate quite heavily on asylum, whereas other migratory movements, such as illegal migration, are generally more substantial. A good information policy is therefore indispensable.
14. These national concerns are also European concerns. Not only have Member States recognized this through increased co-operation and institutional reform, but the European Parliament has become more active in this domain as well. In November 1992 the Parliament adopted two important resolutions as its response to the Commission's 1991 Communications on Immigration and Asylum¹. Since then it has discussed a number of further reports on subjects referred to in this Communication. One of the latest resolutions in this respect has been the resolution adopted by the Parliament on 19 January 1994 on the basis of the Lambrias report on a European refugee policy².
15. The Union has to tackle these issues and, although each national situation may require a specific solution, it should examine how it might contribute by providing a general framework within which a European Immigration and Asylum Policy can be developed.

11.2. The Treaty on European Union

16. The Treaty on European Union offers new opportunities for the development of policies relating to immigration and asylum, as it brings into the single framework of the Treaty aspects of foreign and security policy (Title V) and of justice and home affairs (Title VI). As argued in Chapter III, the development of a comprehensive approach requires a combination of policies: it requires the co-ordination of traditional areas of activity, such as social policy, aspects of common foreign and security policy and trade, co-operation and development instruments as well as migration and migration management policies. The TEU brings all of these policies within a single institutional framework and therefore creates new possibilities for the development of the comprehensive approach which is now required.
17. Title VI of the Treaty enshrines in a binding instrument the obligation, which Member States of the Union have assumed, to cooperate in a number of areas of identified "common interest", including in particular asylum and immigration. To some extent, this formal commitment consolidates and codifies a cooperation which was already happening through more ad hoc machinery to deal with questions agreed to require a joint rather than a dispersed response.

1 Resolutions A3-0280/92 and A3-0337/92. Annex III contains a summary of the major paragraphs of these resolutions.

2 A3-0402/93.

The move from ad hoc intergovernmental cooperation, theoretically reversible at any moment, to a Treaty commitment to cooperate on a permanent basis nevertheless constitutes a considerable political signal both to public opinion in Member States and to the outside world.

18. Title VI also lays down clear rules and procedures for cooperation in these new areas, spelling out the respective roles of Member States, the Commission and the European Parliament, and opening up the possibility of engaging the interpretative authority of the Court of Justice. If less streamlined than the most evolved of the Community's decision making procedures as introduced by the Single European Act, Title VI nevertheless allows, where immigration and asylum are concerned, for all Member States and the Commission to come forward with initiatives; for the European Parliament to be regularly informed and consulted; for joint positions, joint actions and conventions as instruments of cooperation; and for a more rational, more stratified and more coordinated structure of official committees and groups leading to political decision-making in the Council within the unified framework of a Single Treaty.
19. Article K9 of Title VI also creates the possibility for further institutional developments in that it provides that "the Council acting unanimously on the initiative of the Commission or a Member State, may decide to apply Article 100C of the EC Treaty establishing the European Community to action in areas referred to in Article K1(1) to (6)". This Article therefore opens the door for a possible transfer of certain areas of Title VI, including asylum and immigration policies, to the EC Treaty domain. The Declaration on Asylum attached to the Final Act of the Treaty required the Council to consider, by the end of 1993 the possibility of applying Article K9 to asylum policy. In November 1993 the Commission submitted a report on that issue to the Council. In its report the Commission stated that in its view "despite the advantages offered by Article 100C ... the time (was) not yet right to propose the application of Article K9 so soon after the entry into force of TEU", but also indicated its belief that "those advantages demonstrate that the question of the possible application of Article K9 to asylum policy should be examined again in the light of experience."
20. The Treaty on European Union provides, therefore, a new political commitment; a clear set of rules, procedures and possible instruments; an opportunity for all the institutions and Member States of the Union to involve themselves in new areas of major public and political concern; and rationalised and better coordinated structures for preparing political-level decisions. Since there is also a potentially significant agenda for these new structures to address, the Union owes it to itself and to its citizens to put the possibilities offered by the Treaty to early and effective use.

11.3. Developments on the ground

21. Annex I gives an indication, albeit on the basis of available statistics which are not always directly comparable, of the trends in migratory movements since the Commission's 1991 Communications. It is clear that, although there have been changes in the patterns and a number of unanticipated developments, the overall pressures have not diminished and are unlikely to do so. According to EUROSTAT, total immigration into the Union in 1992 has been estimated as involving 2 million persons, half of which related to third country nationals. In 1992, Member States received about 570.000 asylum applications, but figures available for 1993 indicate a significant drop. In addition, the figures in the Annex show that despite some common trends, the situation with regard to immigration and asylum differs between the Member States with Germany, for example, receiving more asylum applications than all other Member States taken together.
22. On one side of the balance sheet, the concerns about mass movements of people towards Western Europe from the ex-Soviet Union and its previous sphere of influence have not yet materialised, even if significant movements have taken place within the area east of the former Iron Curtain, particularly within the component parts of the ex-Soviet Union itself. On the other hand, migration pressures from the South, particularly from North Africa, have if anything increased for both demographic and economic reasons. Furthermore, on the Union's own doorstep, the tragedy of the former Yugoslavia has produced large-scale movements of people forced from their homes by developments which do not fit patterns with which Western Europe is familiar or equipped and which require new and tailored responses. Moreover, a combination of modern travel possibilities and the readiness of unscrupulous traffickers in human beings to exploit them has swelled the numbers of would-be immigrants into Europe from more distant parts of the world.
23. Changes which have taken place since 1991 do not imply that there will not be further changes in future. They merely point to the increasing need for close monitoring of what is happening at any given moment and for putting to maximum use whatever instruments may exist for predicting accurately what might happen next.

11.4. Legislative changes in Member States

24. One of the most important developments since 1991 has been the introduction of the concept of "temporary protection". This has been developed to avoid an over-burdening of asylum procedures in cases of mass influxes. Responding primarily to developments in former Yugoslavia, many Member States have adopted special legislative provisions on temporary protection. These provisions generally constitute the legal basis for temporary admission of people in need of international protection. Although the actual contents of these provisions vary among Member States, some common features can be distinguished:

- the schemes are set up for mass influx situations only;
 - although the persons concerned may have applied for asylum, or may do so at a later stage, their asylum applications are often not being dealt with, i.e. as long as the temporary protection scheme is applicable;
 - the temporary nature of the need for protection makes it particularly important to develop and, the situation in the country of origin allowing, to implement orderly return and rehabilitation policies.
25. There is no uniform pattern in the secondary rights of those who enjoy temporary protection: the right to family reunification, for example, differs between Member States. There is a tendency in Member States to allow people under the temporary protection scheme to work during their stay but the right to work is sometimes limited to vacancies that cannot be filled by the resident workforce.
26. Since 1991, all Member States have adopted measures to deal with the increasing numbers of asylum applicants. In general, the measures taken can be sub-divided into two categories: measures aimed at reducing the number of asylum applications to be considered in substance by introducing new procedures for the receivability of such applications; and measures aimed at reducing the time needed for the substantive examination of asylum applications, for example, by reducing the appeal rights of applicants.
27. The introduction by Member States of rapid procedures for manifestly unfounded applications and the implementation of the third host country principle are examples of the first set of measures. Although the majority of Member States have introduced such procedures, this is not to say that the procedures are similar. The third host country principle, for instance, has been interpreted differently in various Member States. According to this principle, an asylum applicant can be sent to a third country if he or she has already received protection from that country or had the possibility of asking for asylum while transiting through it or if it is clear that he or she will be admitted to the third country. Differences between Member States in applying this principle relate in particular to the interpretation of the criteria with respect to the general situation in the host third country.
28. The most common measure to speed up substantive procedures for dealing with asylum applications is the increase of staff. France, Germany, the UK, Belgium and the Netherlands, for example, have considerably increased the number of staff dealing with individual asylum applications, but similar developments can be noted in other Member States as well. Some Member States have also limited the appeal rights of applicants. Alongside a restriction of appeal rights, a withdrawal of the suspensive effect of an appeal in certain cases has been introduced in some Member States.
29. Special mention should be made of recent constitutional changes in Germany and France. In both cases the amendments adopted were aimed at making it possible to apply the Dublin Convention and other similar arrangements in relation to the issue of which country has responsibility for dealing with individual asylum applications.

30. There have been fewer changes in other areas of immigration law and policy. There is, however, a tendency to restrict conditions for family reunification. Certain Member States introduced waiting periods, while income and housing requirements have been implemented more vigorously. Opportunities for admission for family formation have also been reduced in some Member States. Policies on admission for employment have been restrictive since the mid-1970's and this has not changed in the past few years. If anything, these policies have become more restrictive, due to the significant increase in unemployment figures throughout the Union.
31. Many of these legislative trends have been reflected in work at European level, notably in the resolutions, recommendations and declarations adopted by the Immigration Ministers of the Twelve.

11.5: Developments in regard to the 1991 work programme

32. In 1991, the European Council adopted a work programme aimed at the harmonisation of asylum and immigration policies of Member States and at achieving significant results towards the end of 1993. This is, therefore, a good moment to measure the degree of implementation of the 1991 work programme. Annex II contains a detailed survey of each of the elements of the work programme and its implementation. The following paragraphs describe in more general terms both the achievements and the failings of the harmonisation process thus far.
33. Although the work programme does not contain any definition of the term "harmonisation", that term is usually understood to mean the development of common rules and practices. This interpretation corresponds with the introductory part of the 1991 work programme, which clearly states that it is not sufficient for Member States to develop harmonised legislation, but that their implementation practices should also be similar.
34. During the past two years, Member States have devoted much time and energy to analysing the differences between their national asylum and immigration policies. They have developed guiding principles on some aspects of asylum policies and family reunification. The development of common rules and practices, however, is still at a preliminary stage. Immigration Ministers have adopted a number of resolutions, which are not of a legally binding nature and their interpretation is left to each Member State. There has been no attempt yet to create a mechanism to monitor the implementation of those resolutions. The present stage of the process could therefore best be described as approximation rather than harmonisation of immigration and asylum policies.
35. A closer examination of the resolutions adopted thus far also reveals significant gaps even with regard to the subject matters they are intended to address. For example, the resolution adopted on family reunification does not deal with admission for family formation. Nor does it specify the criteria for admission of unmarried partners or second-degree relatives, leaving it instead to Member

States to develop their own policies. Similarly, the resolution on manifestly unfounded asylum applications leaves it up to Member States to decide whether they introduce a separate procedure for these cases or just speed up regular procedures.

36. Another feature of the implementation of the 1991 work programme is that more progress has been made on asylum than on general admission policies. Even there, however, work has concentrated on specific aspects, i.e. mainly on those policies and practices that would counter the abuse of asylum procedures. No significant progress has been made in the attempt to reach a harmonized interpretation of the definition of refugee according to Article 1A of the Geneva Convention. The European Council, however, adopted a plan of action at its meeting in Brussels on 10 December 1993 which specifies the harmonised application of the definition of refugees as an area for common action. As for general admission policies, the main achievement thus far has been the adoption of a resolution on family reunification and of a recommendation concerning expulsion and internal checks. Work is also under way on the harmonisation of policies on the admission of workers, the self-employed and students, but progress has been slow.
37. It is clear that much remains to be done, if the Union wishes to develop and implement a common policy on immigration and asylum. Achieving and implementing a common policy will not be possible without greater reliance on legally binding instruments, procedures to ensure uniform interpretation of those common rules and the development of common policies in relation to areas of both substantive and procedural law that have not yet been addressed (some of which will probably prove to be the most sensitive).

III. THE DEVELOPMENT OF A EUROPEAN IMMIGRATION AND ASYLUM POLICY

III.1. Introduction

38. The 1991 Communication on Immigration proposed a comprehensive approach based on three separate but interrelated elements:

- Taking action on migration pressure;
- Controlling migration flows;
- Strengthening integration policies for the benefit of legal immigrants.

Developments since 1991 have served to underline the wisdom of a comprehensive multi-disciplinary approach of this kind. Despite changes in the patterns of migratory movements, the overall pressures have not diminished and are unlikely to do so. Indeed developments in the neighbouring countries of the Union are more likely to increase than to reduce the pressures.

39. The general political climate remains favourable to the development of a comprehensive approach. No international forum, however, has yet proved capable of making such a policy operational. The Union has the institutional means to do so and has made a start. The three basic approaches mentioned above deserve equal attention, and one of the challenges facing the Union is how to ensure the right balance between them. When there are imbalances the whole idea of a comprehensive approach may easily be distorted. The basic philosophy of this approach is that short-term control measures, including admission measures need to be matched by long-term co-operation with countries and regions of origin, and an active policy of reinforcing the rights of those already legally residing within the Member States.

40. The Communication therefore presents a balanced and integrated approach and offers the framework within which specific actions can be considered and developed. Some of the actions indicated will produce short term effects, other actions will be effective only in the medium or long term. They are nevertheless interrelated. It has, for example, become clear that an indispensable condition for successful integration policies with respect to third country nationals resident in the Union is control of migration flows (see, for example, the "Braun report", cited in paragraph 118). Harmonisation of admission policies which are discussed in section III.3.2., will have a crucial role to play in that regard.

III.2. Taking action on migration pressure

III.2.1. The need for accurate information

41. An essential element in the development of a comprehensive approach is ensuring the availability of accurate information, based on harmonised statistics, on migratory movements. The Union needs that information in order to formulate and justify the policy measures necessary at its level to give effect to the comprehensive approach. Member States also need accurate information to take appropriate measures at the national level. The availability of reliable statistics will also go a long way towards meeting the concerns of the public at large as those concerns are often fuelled by the absence of a clear picture of the existing situation and likely future trends.
42. The existence of directly comparable data collected on a Union-wide basis would make it possible to:
 - analyse the data in order to establish trends;
 - compare the data with information provided by third countries and international as well as non-governmental organizations;
 - estimate follow-up migration (notably, on the basis of family reunification);
 - forecast major migratory movements (early warning).
43. As long ago as 4 December 1990 the General Affairs Council, in response to a suggestion from the President of the Commission, called on the Commission to conduct studies to establish the resources available to obtain harmonised information on migration flows with the help of Member States. The Commission rapidly drew up an agreed questionnaire but Member States either failed to reply at all or in some cases did so too slowly to be useful.
44. The monitoring of migratory movements was identified as a matter of priority in both the 1991 Communication on Immigration and the 1991 work programme. This led to the setting up of two "clearing houses" - the Centre for Information, Discussion and Exchange on Asylum (CIREA) and the Centre for Information, Discussion and Exchange on the Crossing of Borders and Immigration (CIREFI) - which are informal structures enabling national experts to be brought together on an occasional basis. Their mandates include exchanging data on the number of applications for admission, the numbers of persons admitted and the number of returnees. The collection of data has become a regular exercise and its compilation is done by means of a computerised system. That information, however, is as yet not always directly comparable.
45. Although CIREA has initiated some work towards defining the assumptions underlying the data provided by Member States, the main expertise on harmonising statistics lies with EUROSTAT, which has created a working group of specialists from the Member States in order to work towards such harmonized statistics. The other elements of monitoring migratory movements mentioned above have not yet been fully tackled, although EUROSTAT has taken initiatives in some of these areas.

46. A fully developed monitoring system should be capable of meeting all the needs identified in paragraph 42 above. While the creation of CIREA and CIREFI and the work of EUROSTAT can contribute to the Union's information needs in this area, limits exist on what can be done within those frameworks, especially in the area of collecting and analyzing data on causes of migration pressure. The Commission therefore sees value in the creation of a mechanism to monitor migration flows and patterns on the most comprehensive possible basis and from a Union-wide perspective. Accordingly, the Commission has initiated a study on a variety of possible options for the establishment of an observatory in response to the creation for 1993 and 1994 by the European Parliament of a separate budget line for an immigration observatory whose mandate would not be confined to the collection and interpretation of statistical data. If the results of that study indicate that the creation of an observatory would best meet the information needs for the effective development of the comprehensive policy, the Commission will make an appropriate proposal. Any proposals to that effect will be consistent with the Commission's and the Council's long-held view that the creation of an observatory should not lead to more bureaucracy. The studies currently under way focus therefore on efficient methods to collect and analyse relevant data rather than on the creation of new structures.

III.2.2. Dealing with root causes of migration pressure

47. Another essential step in responding to migration pressures will be to define what is meant by that term and what, in fact, needs to be addressed. Migration pressure relates to all actual and potential migratory movements directed towards Europe. Migration pressures whose root causes need to be addressed take a variety of forms. Economic disparities will generally represent the most significant pressure. Other pressures derive from demographic and environmental factors. In other cases the pressures relate to the human rights or political situation in the country of origin as would be the case for persons in need of international protection. It is these pressures which is the focus of this section. Hence, the discussion of other forms of migration, for example, family reunification will be dealt with in the next chapter.
48. In addressing migration pressures, the Union and its Member States must, of course, honour their international obligations and basic traditions of respect for human rights, fundamental freedoms and social justice. That will mean retaining their traditional openness for refugees, for other persons in need of international protection and for those whose admission is justified for humanitarian reasons.
49. That openness should not, however, deter the Union from seeking to address the underlying causes of migration pressures. For example, refugees, although their protection is part and parcel of the traditional openness, would normally have preferred to stay in their country of origin, had the human rights situation been better there. In the case of illegal immigration the economic situation in

the country of origin is often the major underlying cause. If the economic situation in the country of origin had provided the person concerned with sufficient opportunities, he or she might not even have considered emigrating.

50. A comprehensive approach to migration pressure requires coordination of action in the field of foreign policy, trade policy, development cooperation and immigration and asylum policy by the Union and its Member States. The European Council, at its meeting in Edinburgh on December 12, 1992, adopted a Declaration on Principles governing External Aspects of Migration Policy, which it agreed should guide and inform the approach of the Union in this regard. Those Principles identified the following elements as being important for the reduction of migration pressure:

- the preservation of peace and the termination of armed conflicts;
- full respect for human rights;
- the creation of democratic societies and adequate social conditions;
- a liberal trade policy, which should improve economic conditions in the countries of emigration;
- the effective use of the appropriate volume of development aid to encourage sustainable social and economic development, in particular to contribute to job creation and the alleviation of poverty in the countries of origin;
- coordination of action in the fields of foreign policy, economic cooperation and immigration and asylum policy by the Community and its Member States.

51. The external policies pursued by the Union in the fields of common foreign and security policy, trade, co-operation and development policies can in themselves contribute to achieving these objectives and in practice often do so. Those instruments will therefore continue to play an essential part in any comprehensive approach to migration pressures. There are, however, additional ways and means of giving effect to the principles concerned, based on the premise that account will often need to be taken of both the specific nature of the migratory flows concerned and the region or country of origin they stem from. The three major flows to be considered are: refugees; other persons in need of international protection; other migratory movements. As the causes behind the first two categories of flows are less diversified than those behind the third category, the number of measures suggested is more limited. This does not mean, however, that they are any less important.

(a) Refugees

52. By definition, refugees must have a well-founded fear of persecution in their country of origin and the pressures which cause refugees to seek asylum will therefore always be human rights related. The emphasis which the Union and its Member States place on respect for human rights and the rule of law in their external relations can therefore contribute to reducing those pressures.

53. A potential source of information which is underutilized at present is the information obtained during the examination of well-founded asylum applications. Information provided by refugees may well contain very precise indications on human rights violations in their countries of origin, which could easily form the basis for follow-up action at bilateral or multilateral level against the country concerned. Such information should be systematically examined and generalized with the aim of preparing follow-up action, whenever feasible, whilst fully respecting the personal interests of the refugees providing this information. These actions should be seen as supplementary to and not as a replacement for general human rights policies. Moreover the existing policies for dealing with human rights violations in other countries must continue to be actively pursued.

(b) Other people in need of international protection

54. Other persons in need of international protection refers to those persons who, although they may not fulfill the definition of refugee as laid down in the Geneva Convention, require protection. In their case, root causes will equally involve violation of human rights of, for example, ethnic or religious minorities. But in these cases, the very nature of the mass migratory movements involved indicates that there is more to them than that: ethnic or religious tensions will generally have escalated to such an extent that there is a situation of civil war or at least of wide-spread violence. Human rights policies should therefore be supplemented by policies aimed at putting an immediate end to the violence itself. As was mentioned in the Edinburgh Declaration, in those cases action by the Union will have to be directed to the restoration and preservation of peace. In addition, humanitarian assistance may contribute to alleviating the plight of displaced persons in the region of origin; such assistance should, in particular, enable displaced persons to stay in the nearest safe area to their home.
55. The development of a framework in cases of armed conflicts involves a mix of human rights policies, other elements of foreign and security policies, and humanitarian assistance. As has been emphasized by UNHCR within the framework of the Comprehensive Response to the Humanitarian Crisis in former Yugoslavia, it is necessary to develop inter-agency co-operation at international level. It will be up to the Union and its Member States to contribute as effectively as possible to such strategies.

(c) Other migratory movements

56. The third category of migratory flows is of a mixed character. Today, most often, these movements will amount to illegal migration. This category also comprises, however, those mass movements that do not come under the second category, for example, those following a famine or ecological disaster. The pressures underlying these movements are different in nature from (a) and (b). They require a different response and policy mix. The root causes are generally identifiable: economic disparities, demographic pressures and some

times ecological developments will normally explain the greater part of these pressures. As was stated in the Edinburgh Declaration, addressing these migration pressures requires action at the macro level by way of economic cooperation, including a liberal trade policy and effective forms of development cooperation. Action at the micro-level can also contribute to reducing those pressures.

- economic disparities

57. Tackling economic disparities as a root cause creating migration pressure presents the Union and its Member States with special challenges. Past experience has shown that development cooperation alone cannot solve these economic disparities: they need to be linked with policies on debt management, international trade and investment, since the general economic scope of the developing countries is determined to a large extent by their terms of trade and their ability to attract or obtain foreign investment. Another area of economic development is the furtherance of regional economic integration. The experience of the European Community itself shows that such a process can considerably enhance opportunities for economic growth. Including all of these aspects in the comprehensive approach and making them operational will require the involvement of the greater part of the external economic and development relations of the Union and its Member States.
58. In its Communication of May 1992 on development co-operation policy in the run-up to 2000, the Commission noted the existing relationship between certain migratory movements and the development co-operation policy. The best remedy to those migratory pressures would be the promotion of economic growth in the developing countries. The integration of an active migration policy into general development co-operation policies and external economic relations should be strengthened. The concentration and the co-ordination of development co-operation policies of the Commission and the Member States could contribute to this. The effects of such a global approach would, however, be felt only in the long run.
59. There are, however, particular cases which might justify specific development assistance: developing countries which are affected by the phenomenon of a severe brain-drain, developing countries subject to large-scale migratory movements from other countries and developing countries who are willing to cooperate actively with the implementation of an orderly return programme.
60. The Commission has financed a project implemented by the International Organization for Migration (IOM) to stimulate and facilitate the return and re-integration of qualified African nationals residing in industrialised countries. In this way, the Commission aims to contribute to reversing brain-drain effects for certain sub-Saharan African countries. The results of that project have been evaluated with a view to a decision on continued support for such a programme.

61. A related possibility would be the development of special exchange programmes. Such programmes which exist already within the framework of co-operation with third mediterranean countries, offer identified target groups a chance to stay within the Union for a temporary period in order to continue their studies or to gain employment experience. Such programmes require a careful formulation of the conditions under which such temporary stay should be allowed: It should be clear from the beginning that eventually the people concerned have to return to their countries of origin.
62. In practice, most refugees do not reach Europe at all, but stay in developing countries. The efforts undertaken by these countries, regularly in close co-operation with the Office of the UN High Commissioner for Refugees (UNHCR), is supported by the Union and its Member States. Part of the development assistance, and in particular of the humanitarian assistance, provided by the Union and its Member States is used to help these countries.
63. UNHCR and IOM have also been extremely active in the past in setting up orderly return programmes, whenever possible. For example, the Comprehensive Plan of Action for Viet Nam has made it possible for a considerable number of people to return in safety and dignity to their country of origin. Such programmes rely heavily on support from, inter alia, the Union and its Member States. The Ministers responsible for migration affairs of the 32 Member States of the Council of Europe, meeting in Athens in November 1993, also drew attention to the development of carefully designed schemes to assist persons voluntarily returning to their countries of origin, e.g. for refugees able and willing to return to their home countries and contribute to the rebuilding of democratic societies there.

- demographic pressures

64. A factor already present which may become even more important is the demographic situation in a number of countries of origin. In its report on the State of the World Population 1993, the UN Population Fund (UNFPA) states the following:

"Though rates of population growth may have fallen in most developing countries, numbers are rapidly increasing. The rapid increase in the number of young people entering their peak years of fertility has the potential for even greater increases in the future. Every demographic impetus towards migration will be multiplied over the next two or three decades as populations - and therefore the number of potential migrants - rise. The combination of population pressures and economic imbalances could produce mass migration from poorer to richer countries."
65. It will be necessary for the Union and the Member States to continue to assist developing countries with their own efforts in the field of demographic policies and to contribute to effective action at international level. As mentioned in the Resolution adopted by the Development Council in November 1992, such areas of assistance

should include: promotion of the health of women in their societies, promotion of literacy, improvement of the quality of the social services available to communities and the provision of family planning services as long as these are not in any way coercive, discriminatory or prejudicial to fundamental human rights.

- environmental considerations

66. Environmental factors can also constitute root causes for either incidental or long-term migration pressure. UNHCR and UNFPA have argued that these factors are often neglected. At the most obvious level, natural disasters, such as flooding or extreme drought tend to produce migratory movements, primarily away from the affected areas into safer regions or countries. Longer-term processes such as erosion and desertification as well as the rising sea level can also bring about migratory movements. The Union and its Member States will need to continue to respond to incidents of natural disaster by offering an appropriate level of humanitarian assistance. The incorporation of the environmental dimension, already advocated in the Commission's Communication "Towards Sustainability" and foreseen in the context of the mid-term review of Lomé IV, will also address the root causes of migratory pressure in the long term, by ensuring a better management of the natural resources of the developing countries.

- action at micro-level

67. In addition to the longer-term measures of a macro-economic nature (which by definition will take time to produce tangible results, perhaps even after an initially counterproductive impact in terms e.g. of potential brain-drain), actions will also be required at micro-level. In this context, the key question that needs to be addressed is what motivates potential illegal immigrants to leave their countries of origin and choose to come to the Community. It would appear that not all groups behave alike and that there is a tendency, for example, for qualified rather than unqualified people to migrate³. This suggests that the "profiling" of actual and potential immigrants could make a significant contribution to the development of strategies and programmes to be applied at the level of countries or regions of origin themselves.⁴

3 Studies for various countries point to this tendency: a study prepared by the University of Amsterdam for the Dutch Ministry of Welfare, Health and Culture, in 1992, showed this for asylum applicants. Studies the Commission prepared on the MAGHREB-countries identify similar tendencies for illegal migrants coming from these countries.

4 The Migration Information Programme, set up in Budapest, following a joint undertaking of the Council of Europe and IOM, is also producing useful studies on the profile of potential migrants from Central and Eastern European countries and their motivations.

68. It will be necessary to involve the country of origin in this process from the beginning: only within the framework of a dialogue with the countries concerned can effective measures be taken. They could, for example, involve economic and social measures. It may turn out that international migration is the sequel of internal migration from rural into urban areas. In such cases, it may be feasible to concentrate on these internal movements, either by introducing labour-intensive development projects for these rural areas or by improving housing and work conditions in the urban areas, especially in the small and medium-sized towns and cities, and preferably by a combination of these policies.

III.3. Controlling migration flows

III.3.1. Introduction

69. Within the framework of the comprehensive approach controlling migration flows will continue to represent an indispensable element. The "root causes" policies described in section III.2 above are primarily aimed at long-term reduction of migration pressure. Measures aimed at controlling migration will therefore remain necessary for the foreseeable future.
70. The first task in controlling migration is to formulate basic principles in order to reflect the distinction between migration pressure and other forms of migration. Admission policies will necessarily represent this distinction: they cannot be purely restrictive, as they should respect international obligations and humanitarian traditions in general. Hence, controlling migration does not necessarily imply bringing it to an end: it means migration management. Defining grounds for admission in clear terms makes it possible to translate those concepts into practical policies. The definition and implementation of policies in order to deal with irregular forms of migration will be another essential element in the control of migration flows.
71. Throughout this chapter emphasis will be put on the need to harmonise immigration and asylum policies. This is by no means a new idea but reflects an approach endorsed by the European Council which requested Immigration Ministers in 1991 to make substantial progress with the harmonisation of both immigration and asylum law before the end of 1993. The reasons which justify such a common approach are related in part to the intensification of migration pressures felt by almost all Member States. Member States recognize that their immigration and asylum policies have become increasingly interdependent as the adoption of new measures in one Member State can directly affect migratory movements towards the neighbouring Member States.

III.3.2. Admission policies

72. Although both the 1991 Communication on Immigration and the 1991 Maastricht work programme contained references to basic principles underlying admission policies, discussion between Member States has generally concentrated on the more specific proposals for harmonisation included in the work programme. This approach seems justified, as long as the general principles governing each specific ground for admission are defined during the harmonisation process. The following paragraphs review the work done in these areas and seeks to identify matters which remain to be addressed while setting out some basic considerations which are relevant to individual grounds for admission.
73. The first area addressed by Immigration Ministers was admission for family reunification. On this, they adopted a resolution in Copenhagen in June 1993. That resolution reflects the principle

