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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL**

**Contribution to the EU Position for the United Nations' High Level Dialogue on  
Migration and Development**

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### Contribution to the EU Position for the United Nations' High Level Dialogue on Migration and Development

#### 1. INTRODUCTION

In recent years increasing attention has been paid to international migration, to its management and to its impact on economic and social development both in countries of origin of migrants and in their countries of residence – not least against the background of demographic change, ageing societies and skill shortages in the industrialised world, on the one hand, and strong population growth combined with often insufficient job creation potential, low career prospects and persistently high unemployment in the developing world.

In addition, the consequences of migration on migrants themselves, their rights and their welfare, have also become an important concern for the international community. This has been reflected at the UN level: international migration and its links with development was one of the main subjects addressed during the 1994 Cairo Conference on Population and Development, and in the aftermath of the Conference this issue has been tackled on various occasions in the UN framework, notably in the Economic and Social Council.

International migration is one of many expressions of the trend towards increasing globalisation. In this perspective, the European Union decided to progressively set up an EU policy on immigration and asylum, as common challenges call for common responses. With the coming into force of the Amsterdam Treaty on 1 May 1999, immigration policy became subject to EC decision-making rules. On that basis, the Tampere Programme, adopted by the European Council in 1999<sup>1</sup>, marked the start of the setting up of a common EU policy on immigration and asylum. Five years later – in November 2004 – the Hague Programme<sup>2</sup> took stock of the achievements and shortcomings so far while setting up an ambitious work programme for the coming five years. Implementation of the Hague programme is now well underway.

The European Community is an important actor in the global debate on international migration, not least because EU immigration policy includes a significant external dimension. In that framework, the European Commission, representing the Community, has started a comprehensive dialogue on migration-related issues with a broad range of third countries and regional organisations, covering issues that include the linkages between migration and development, the fight against illegal immigration and human trafficking and the strengthening of protection for asylum seekers and refugees. More such dialogues will be launched in the near future. In addition, the Community is providing financial assistance to a number of non-EU countries to help them increase their capacity to manage international

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<sup>1</sup> Presidency Conclusions, European Council, Tampere, 15 and 16 October 1999.

<sup>2</sup> Presidency Conclusions, European Council, Brussels, 4 and 5 November 2004.

migration, notably in the framework of the AENEAS funding programme<sup>3</sup>, and it is working – in partnership with the countries concerned – towards integrating migration concerns into its geographical development and cooperation programmes, including by addressing the root causes of emigration, notably through an external programme for human and social development<sup>4</sup>. Successful implementation of these and similar initiatives is done in close collaboration with Member States because only by working jointly and by pulling the resources together tangible results can be achieved.

The EU is committed to ensuring that fundamental rights of migrants and refugees are respected and that migrants in host societies are able to benefit from a mutual process of adaptation and integration. It supports the full implementation of UN conventions in the area of the fight against all sources of intolerances, of the promotion of the diversity of cultural expressions in societies, and more generally all UN initiatives aimed at nurturing a human rights culture based on education of mutual respect and understanding between civilizations.

The Commission, on behalf of the Community, welcomes the decision of the General Assembly of the United Nations to organise a High Level Dialogue on Migration and Development on 14-15 September 2006, in the framework of its 61<sup>st</sup> session. In light of the increasing importance of international migration it considers this initiative as extremely timely. Through this paper the Commission wishes to share this experience on these topics and make some suggestions in the context of the High Level Dialogue (hereafter HLD)<sup>5</sup>.

## **2. IMPORTANT ISSUES TO BE ADDRESSED**

On the basis of the documents prepared by the Secretariat-General of the United Nations<sup>6</sup> and of preparatory discussions so far, the EU would like to address a number of issues. Most of these issues were also dealt with in the report by the Global Commission on International Migration (GCIM)<sup>7</sup>. This report contains a number of useful recommendations that are a positive contribution to discussions in the framework of the HLD, for example on labour migration, the linkages between migration and development, integration and the question how to respond to the challenges of illegal migration. Asylum issues, which do not feature prominently on the agenda of the HLD, are not addressed here. However, the EU regards these issues as very important and is developing a comprehensive policy to respond to the challenges they raise.

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<sup>3</sup> Regulation (EC) No 491/2004 of the European Parliament and the Council of 10 March 2004 establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum (AENEAS)

<sup>4</sup> Investing in people: Communication on the thematic programme for human and social development and the financial perspectives for 2007-2013 - COM(2006) 18 final of 25 January 2006.

<sup>5</sup> This Communication generally does not address EU policies to address intra-EU migration, which the EC does not regard as international migration.

<sup>6</sup> In particular 'International Migration and Development', Report from the Secretary-General, Document A/60/871, General Assembly, United Nations, 18 May 2006.

<sup>7</sup> "Migration in an interconnected world: new directions for action", report by the Global Commission on International Migration, October 2005.

## **2.1. Partnerships for a shared responsibility**

The EU believes that managing migration is a shared responsibility of countries of origin, transit and destination. This is all the more important as the distinction between these three categories of countries becomes increasingly blurred. Shared responsibility calls for enhanced cooperation between States to better manage migration, taking into account the interests and concerns of all countries involved. The Commission believes that such mechanisms offer a flexible, non-binding framework for identifying solutions to shared challenges, from fighting trafficking in human beings to improving the channelling of migrants' remittances and fostering 'brain gain' and 'brain circulation'.

In the framework of its broader cooperation agreements, the EU has developed a dialogue on migration-related issues with various countries and regions in the world. The European Neighbourhood Policy, which covers countries in Eastern Europe and the Southern and Eastern Mediterranean, is a case in point, and other dialogue processes are underway with partners in Africa, Asia, Latin America and the Caribbean<sup>8</sup>. Such dialogue typically covers a broad range of issues, including for example the linkages between migration and development, integration and treatment of migrants in their countries of destination, economic migration, the fight against illegal migration and trafficking in human beings, the situation of asylum seekers and refugees, the impact of refugee situations on development and more generally joint efforts to better manage economic migration. It can also lead to the provision of EU assistance through thematic and country-specific programmes to help partner countries build their capacity to better manage migration flows and to maximise the positive linkages between migration and development.

Capacity building underpins this political dialogue. Third Countries have to define common objectives and working arrangements between the different national administrations and all stakeholders including civil society to respond to the challenges of migration. They can be assisted in this process which could result in the emergence of national migration strategies and action plans with a clear time frame and related budgetary planning.

Working with African States and regional organisations is a current priority of the Community. The European Council Conclusions of December 2005 set out a list of priority actions to be implemented in the course of 2006, with a view to increasing dialogue and cooperation on the broad range of migratory issues between the EU and Africa<sup>9</sup>. One specific initiative in this context is to bring together countries of origin, transit and destination, in particular those along a given 'migration route', to address the challenges of migration..

## **2.2. Managing economic migration in the mutual interest of countries of origin and destination**

The management of economic migration is closely linked to the debate on harnessing the synergies between migration and development. While economic migration, if well managed, benefits individual migrants and countries of destination, it can also make a positive contribution to the development of countries of origin – in the short term, through the transfer of remittances; in the medium or long term, through the valorisation of the skills, experience and social capital acquired by migrants in host countries. This can be achieved through

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<sup>8</sup> A parallel dialogue is also underway with the ACP (African, Caribbean and Pacific) grouping as such.

<sup>9</sup> 'Global Approach to Migration: Priority action focusing on Africa and the Mediterranean', Presidency Conclusions, European Council, Brussels, 15 and 16 December 2005.

various means including voluntary return migration. However, definitive return is not always an attractive option for migrants, hence the current interest in the concept of circular migration with a view to promoting brain circulation. Such migration can take several forms, from temporary or seasonal migration to temporary or virtual migration schemes such as those managed by organisations including the International Organisation for Migration (IOM) and the United Nations Development Programme (UNDP), and to which the Community and some of its Member States are actively contributing.

The Commission has set out orientations for facilitating voluntary return migration and encouraging circular migration in its Communication on migration and development<sup>10</sup> and in its Policy plan on legal migration<sup>11</sup>. The latter document, which sets out the Commission's work plan for the coming years in areas related to the admission of legal migrants, also includes other orientations that can be of interest to countries of origin, such as more accessible information on the possibilities and the conditions for legal employment in the EU and the possibility of making assistance available to institutions that would provide training to would-be migrants in countries of origin, so that they can match the labour needs of EU Member States. Furthermore, the definition of clear and well-defined admission procedures for labour migrants should contribute to better managed migration flows in the interest of all parties concerned.

In some cases, however, economic migration to developed countries can create problems for countries of origin, by producing human resource bottlenecks in specific sectors or occupations. The Commission has started to identify possible responses, in particular mechanisms to discipline recruitment and promote ethical recruitment practices, monitoring mechanisms and support to partnerships between institutions in EU Member States and in developing countries. It has made more specific proposals regarding the healthcare sector in a separate Communication<sup>12</sup>. In addition, dealing with brain drain and mitigating the impact of skills losses will be one of the main topics in the dialogue on migration-related issues which the Community is launching with the African Union and a with number of individual countries in Africa, on the basis of article 13 of the Cotonou Agreement.

Moreover, economic migration is also a South-South reality, as it frequently occurs between developing countries, notably in the framework of regional integration initiatives, which the EU actively supports. While it can bring significant benefits, such migration also raises issues of administrative capacity in developing countries that call for adequate support.

Directly related activities include joint efforts to strengthen the social dimension of globalisation, to take full account of and mitigate employment and social impacts of trade policies and market liberalisation, and to promote decent work as a global goal.<sup>13</sup>

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<sup>10</sup> 'Migration and Development: some concrete orientations', COM(2005) 390 final of 1 September 2005.

<sup>11</sup> 'Policy Plan on Legal Migration', COM(2005) 669 final of 21 December 2005.

<sup>12</sup> 'EU Strategy for Action on the Crisis in Human Resources for Health in Developing Countries', COM(2005) 642 final of 12 December 2005.

<sup>13</sup> "The Social Dimension of Globalisation - the EU's policy contribution on extending the benefits to all" - Commission Communication adopted on 18 May 2004 COM(2004) 383; Communication "Promoting decent work for all: The EU contribution to the implementation of the decent work agenda in the world" (COM(2006) 249) and its Annex (SEC(2006) 643), both dated 24 May 2006.

### **2.3. Integration of third-country nationals**

Effective integration policies are key to ensuring that migration works to the benefit of both host countries and the migrants themselves. As more and more countries in the world become host countries, the Commission believes that there is a case for encouraging exchanges of experiences on policies that work for integration.

The Community and its Member States have developed comprehensive policy approaches to the integration of migrants. A set of common principles has been identified by the Council<sup>14</sup> and further developed by the Commission<sup>15</sup>. The Commission has also published a Handbook on Integration for policy-makers and practitioners<sup>16</sup>; a new edition of this publication is foreseen towards the end of 2006.

In addition, several pieces of Community legislation which have recently come into effect will contribute to better integration of migrants, including the Directives on the status of third-country nationals who are long term residents<sup>17</sup> and on family reunification<sup>18</sup>. Further, Community legislation on discrimination<sup>19</sup> is of direct relevance. The rules on racial and ethnic discrimination, in particular, cover a wide range of areas where unfair treatment against migrants might occur, including access to jobs, working conditions, rates of pay and the rights and benefits linked to a job, access to education and training, to goods and services, social security benefits and health care.

Integration policies, and in particular the rights and treatment of third-country nationals, are already the subject of regular discussions between the Community and various third countries in the context of broader dialogue on migration-related issues. However, the Community is ready to share its experience and practices in this area with other interested countries and in international fora.

### **2.4. Combating illegal migration and human trafficking in full respect of fundamental rights**

The distinction between legal and illegal migration is a fundamental feature of Community immigration policy. Combating illegal migration in all its dimensions is a necessary element of a managed migration programme.

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<sup>14</sup> Common Basic Principles on Integration adopted by JHA Council of 19 November 2004.

<sup>15</sup> 'A Common Agenda for Integration: Framework for the Integration of Third-Country Nationals in the European Union', COM(2005) 389 final of 1 September 2005.

<sup>16</sup> European Commission, November 2004.

<sup>17</sup> Council Directive 2003/109/EC of 25 November 2003.

<sup>18</sup> Council Directive 2003/86/EC of 22 September 2003.

<sup>19</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Since 2001, a comprehensive approach has been developed that encompasses all stages of the migration chain, including cooperation with countries of origin and transit, border control, measures taken after illegal entry, and readmission and return policy. Such an approach is laid down in several Communications and Action Plans on illegal immigration, integrated border management and return policy.

An effective policy to reduce illegal immigration requires a mixed strategy, which contains measures aimed at both further harmonisation of Member States' legislation and at enhanced operational cooperation, as well as appropriate policies and incentives to promote economic growth and job creation in countries of origin. At the same time external factors are addressed through cooperation with countries of origin and transit. All measures proposed by the Commission in this field are subject to an in-depth scrutiny to ensure that they are fully compatible with fundamental rights as general principles of Community law as well as international law, including refugee protection and human rights obligations derived from the European Convention on Human Rights. A particular emphasis is given to provisions dealing with procedural safeguards, family unity, and safeguards with respect to detention and coercive measures. The Commission is about to present a new Communication on illegal immigration which will summarise EU policy in this area.

In order to effectively address human trafficking, an integrated approach is needed, taking into account its global nature<sup>20</sup> and based on respect for fundamental human rights.

The persons concerned, their needs and rights are at the centre of the EU's policy against human trafficking. At the same time, the prevention of and the fight against human trafficking is an essential element of the Community's efforts to improve the checks and surveillance at the external borders and to enhance the fight against illegal immigration. Moreover, in accordance with Community legislation, Member States are encouraged – in order to improve the status of trafficked persons – to grant to those third-country nationals who are victims of trafficking and who intend to testify against the traffickers a special residence permit and additional specific rights for the duration of the criminal proceedings<sup>21</sup>. Finally, in this context, the Commission would recall its proposal for a Decision on the conclusion of the UN Protocols on human trafficking and migrant smuggling as soon as possible.

The EU is eager to intensify exchanges of experiences with other interested countries on best practices in the fight against human trafficking and in the treatment of victims thereof.

## **2.5. Making migration work for development**

The potential for migrants to make a positive contribution to the development of their countries of origin is increasingly being recognised. The Commission believes that these issues, which have recently been the subject of discussions in various international fora, should be at the centre of the debates at the HLD.

Issues such as migrants' remittances and their possible contribution to the development of countries of origin, the role that can be played by diasporas and their members in contributing to the economic, social and human development of these countries, or the promotion of circular migration, are among those areas where the benefits of cooperation between countries

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<sup>20</sup> 'Fighting trafficking in human beings - an integrated approach and proposals for an action plan', COM(2005) 514 final of 18 October 2005.

<sup>21</sup> Council Directive 2004/81/EC of 29 April 2004.

of origin and destination can be greatest. For example, minimising the costs of remitting money can best be achieved if countries of origin and destination work hand in hand. Likewise, Diaspora mobilisation is most effective if efforts are undertaken at both ends.

The Commission summarised the orientations it intends to follow in this area in a Communication adopted on 1 September 2005<sup>22</sup>. Whereas some of the orientations contained in this document can be introduced by the EU unilaterally (for example measures to increase competition and transparency in the market for remittance services, or measures in the area of residence rights), most can only be implemented in cooperation with interested countries of origin. With this Communication, the Commission therefore proposes working with partner countries in the developing world to help them capitalise on the potential benefits that migrants can bring to their countries of origin. It is ready to integrate this objective in its development cooperation programmes with these countries, where appropriate and agreed. Funding has already been provided through the AENEAS programme, for example by supporting initiatives of Diaspora communities to contribute to the economic and social development of their home communities and to facilitate the use of remittances for productive investments and development initiatives.

To really take advantage of these links and synergies it is important to ensure that short-term measures go hand in hand with a long-term approach, with migration policy and development policy properly integrated. In this context, migration is increasingly being incorporated into the Country and Regional Strategy Papers, which constitute the framework under which Community assistance to its developing country partners is programmed. This has contributed to a better understanding of the migration and development dimension, and has allowed several developing countries to highlight issues such as addressing brain drain or the mobilisation of their Diasporas as priorities for future Community assistance.

Further, the availability of decent jobs, income opportunities and working conditions in sending countries, as well as the absence of conflict or of unsustainable pressures on the environment can help ensure that when an individual migrates, he or she does so out of choice. The EU's development policy<sup>23</sup> addresses these and other push factors of migration, through its contributions – in partnership with developing countries – to poverty eradication, conflict prevention, economic development, trade promotion, the promotion of human rights and good governance, the protection of the environment and its assistance towards attaining the Millennium Development Goals. The EU provides over half of the world's aid and has committed itself to further increase this assistance, together with its quality and effectiveness.

The Commission believes that the root causes of migration, as well as the way in which other development donors could increase their contribution to addressing them, should be discussed in the UN framework as well as the positive links and synergies that exist between migration and development policies. Indeed, the Commission believes that the links between migration and development offer significant potential for furthering development goals, without of course constituting a substitute for or an alternative to Official Development Assistance.

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<sup>22</sup> 'Migration and Development: some concrete orientations' (COM(2005) 390 final). The annexes to this Communication include numerous examples of good practices developed in EU Member States and elsewhere.

<sup>23</sup> The European consensus on development, November 2005.



### 3. AFTER THE HIGH-LEVEL DIALOGUE: THE WAY FORWARD

The Commission notes the Secretary-General's proposal to establish a Permanent Forum to share experiences<sup>24</sup> as a follow-up to the HLD. The Commission believes that this Forum should take the form of an informal, voluntary and non-binding process under the auspices of the United Nations but driven by States and other relevant participants, in which views and experiences could be exchanged on a number of migration-related issues which have a direct impact on development and show a potential for producing win-win outcomes for all participants in the migration chain, and in particular countries of origin.

The Commission believes that the various issues addressed in the report are relevant to improving the management of international migration. However, it also believes that the proposed forum would have greater added value if it were to concentrate its work as a matter of priority on those issues where there is a potential to achieve concrete progress for the development of countries of origin, based on the actual experiences of participating States and organisations, for instance:

- policies and actions to foster the contribution of migrants to the development of countries of origin, including through remittances;
- policies and actions to improve the management of economic migration – including South-South migration – in the mutual interest of countries of origin and destination;
- policies and actions to limit brain drain and to foster circular, temporary, seasonal and virtual migration;
- policies and actions to fight illegal migration and human trafficking;
- as well as initiatives aimed at helping build capacity in these various areas.

In addition, the Commission believes that it is important to concentrate on reinforcing the efforts that are already underway to improve coordination between the various UN agencies and other international organisations active in the area of migration management. In this respect, the Commission welcomes the setting up at the initiative of the Secretary-General of the Global Migration Group. It expects a simplification of the institutional setting, as well as a process of reinforced, regular and transparent coordination of the main international organisations on migration related issues and would welcome further information on the role and functioning of this Group.

### 4. CONCLUSION

International migration has become an important issue on the policy agenda of the international community and this is likely to remain so for the foreseeable future. The Commission hopes that through political dialogue and exchange of best practices at the international level, the High Level Dialogue will start a process, towards a global consensus on how to improve the linkages between migration and development. In this perspective, it is ready to play an active role in the work of the High Level Dialogue and to contribute to the debate on the kind of follow up that should be put in place.

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<sup>24</sup> 'International Migration and Development', Report from the Secretary-General.