NOTE

to: Council/European Council
Subject: High-Level Working Group on Asylum and Migration
   – Adoption of the report to the European Council in Nice

Delegations will find attached a report on the discussions of the High-Level Working Group on Asylum and Migration for the attention of the European Council in Nice.
High-Level Working Group on Asylum and Migration

Report to the European Council in Nice

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I. Origins of the High-Level Working Group on Asylum and Migration

1. In response to an initiative by the Netherlands, the General Affairs Council on 7 and 8 December 1998 set up a High-Level Working Group on Asylum and Migration (HLWG). Its brief was to prepare cross-pillar Action Plans for the countries of origin and transit of asylum seekers and migrants. The General Affairs Council on 25 and 26 January 1999 approved the HLWG's proposal that it prepare Action Plans for the following countries and regions:

   - Afghanistan and the neighbouring region
   - Morocco
   - Somalia
   - Sri Lanka
   - Iraq
   - Albania and the neighbouring region.
These countries were selected on the basis of a comprehensive analysis of flows of asylum seekers and migrants and of the causes of these flows.


3. The Council Presidency has informed the European Parliament of the work of the HLWG on several occasions. In March and June 1999 the German Presidency informed the Parliament in writing of developments and on 23 September 1999 the draft Action Plans for Sri Lanka, Somalia, Iraq, Morocco and Afghanistan and the neighbouring region were presented by the Finnish Presidency to the Parliament in order to get its views in advance of the Tampere European Council. On 30 March 2000 the European Parliament adopted a Resolution on the work of the HLWG and the Action Plans, on the basis of the report by Mr Hernandez Mollar.

4. The European Council in Tampere welcomed the report of the HLWG, and agreed on the continuation of its mandate and on the drawing up of further Action Plans. It invited the Council and the Commission to report back on their implementation to the European Council in December 2000.

5. In response to the instructions from the General Affairs Council, the HLWG prepared a list of possible actions for the year 2000 set out in Table I attached to 8939/00 JAI 60 AG 46.

6. The General Affairs Council on 13 and 14 June 2000 approved the Action Plan for Albania and the neighbouring region and the list of actions in the document referred to earlier. It instructed the HLWG to ensure that that Action Plan was implemented at the same time as the other Action Plans and to develop and complete the list of actions set out in 8939/00 JAI 60 AG 46.

II. Thinking behind the work in progress

8. The Action Plans are based on the premise that there must be a common approach that pays attention to political and socio-economic factors conducive to, or resulting from, flight from the country of origin or negative consequences of migration in a country. In order to be effective, such an approach must be comprehensive, maintained over the long-term and responsive to changes of situation. All relevant measures available to the European Union, the European Community and the Member States will have to be utilised in a coordinated fashion.

9. When drawing up the Action Plans, the HLWG was aware of the following factors:

- effective implementation of the plans means that the Council, the Commission and the Member States need to work closely together in a coordinated manner;

- it also presupposes agreement on the necessary financial and human resources;

- the Member States must make their expertise available in the various policy fields;

- the implementation of the plans also requires consultation of and close cooperation with the relevant international organisations;

- a genuine partnership must be established between the countries concerned by the Action Plans and the European Union and its Member States and reciprocal undertakings must therefore be defined.
10. The Action Plans contain proposals for measures for cooperation with the countries concerned in three integrated categories: foreign policy, development and economic assistance as well as migration and asylum. The Action Plans can be considered as a first attempt by the European Union to define a comprehensive and coherent approach targeted at the situation in a number of important countries of origin or transit of asylum seekers and migrants.

11. Essential instruments of a coherent approach to migration and asylum are dialogue, cooperation and co-development. Important components of the approach are protection of human rights, support for democratisation and the rule of law, social and economic development, alleviation of poverty, support for conflict prevention and reconciliation, and cooperation with the UNHCR and human rights organisations, observance of refugees' and asylum seekers' right to protection, integration of migrants and the fight against illegal immigration (inter alia through Community readmission agreements).

12. The HLWG also considered that cooperation with the Union's traditional dialogue partners could be mutually beneficial.

13. The HLWG expressed the hope that countries which have applied for membership would participate in the efforts of the European Union to develop and implement the integrated, cross-pillar approach targeted at the situation of countries of origin of asylum seekers and migrants and transit countries.

III. Implementation of the Action Plans

III.1. General

14. Since the adoption of the Action Plans by the General Affairs Council, implementation of the measures in them has been the subject of continuous monitoring. In order to speed up progress, the HLWG held a series of special country-specific meetings under the Finnish, Portuguese and French Presidencies. At the same time it invited the Commission to organise informal expert meetings on each of the Action Plans in order to reinforce the implementation process.
15. During the implementation process, the Finnish, Portuguese and French Presidencies, together with the Commission, held regular meetings with the international organisations which had contributed in the preparatory phase and which are involved in the implementation of the Action Plans.

16. The Action Plans have been brought to the attention of the following countries: Sri Lanka (contact at ambassador level in Brussels on 13 September 1999 and in Stockholm on 1 October 1999), Iraq (contact with the chargé d'affaires in Helsinki on 4 October 1999), Albania (Action Plan transmitted by the Albanian Ambassador in Paris, the French Ambassador in Tirana and the Albanian Ambassador to the European Union at the beginning of October 2000). The Action Plan was presented to the Albanian authorities and the authorities of the neighbouring region at a meeting of Stability Pact Table III in Sofia on 4 and 5 October 2000 and to Morocco (mission to Rabat in June 1999 at which a first draft of the plan was given to the Moroccan authorities; the Action Plan was transmitted by the Moroccan Ambassador in Stockholm on 1 October 1999).

17. Wide-ranging consultation by the EU missions and Commission delegations in the countries concerned and neighbouring countries highlighted the importance of increased cooperation with the transit countries and the countries bordering the countries concerned.

Member States have in varying degrees been able to assist with the implementation of the Action Plans in the context of their bilateral relations with the countries concerned and the countries bordering the countries concerned.

18. In the absence of authorities empowered to act on behalf of a State recognised in international law, it has not yet been possible to transmit the Action Plans for Afghanistan and Somalia.
III.2. **State of play for each of the Action Plans**

(a) **Morocco**

19. In connection with the implementation of the Action Plan for Morocco, a delegation from the HLWG (Presidency, Spain, Sweden, Commission and General Secretariat of the Council) visited Rabat from 2 to 4 October 2000.

20. On that occasion the Moroccan authorities stressed that the Action Plan as presented to them lacked balance, particularly in its emphasis on the "security dimension". At the same time they stressed the need to work in partnership with the Union in order to enhance the content of the Plan in the framework of the European Union/Morocco Association Council.

20. On 9 October 2000, at the first meeting of the EU-Morocco Association Council, the Moroccan delegation took note of the Action Plan prepared by the HLWG and said that the approach adopted by the Union in the area of immigration was still excessively dominated by the security aspect, whereas it was now acknowledged by all that socio-economic considerations alone were behind emigration towards Europe. It therefore wished to focus more on the socio-economic dimension of the Action Plan.

21. The Presidency proposed setting up a subcommittee on Immigration and Social Affairs under the auspices of the Association Agreement; its brief would be to enhance the Action Plan in the light of Morocco's comments, in order to turn it into an instrument common to both parties.
22. In the meantime, a certain number of measures under the Action Plan for Morocco have been implemented. Using the MEDA programme, a number of measures in the development area have been implemented. Projects are also funded in the framework of MED-STAT and the various projects dealing with migration issues have been given financial support. Migration was included by the Commission in its Country Strategy Paper for Morocco. On the basis of a proposal from the Commission, the Council agreed to include a reference to migration in the Indicative Programme 2000-2002 for MEDA II, with a budget of EUR 3 million. The Commission has already started the MEDA II programming exercise with the Moroccan authorities. A EUR 3 million project for institutional support for migration issues is planned for the year 2001. Other noteworthy activities include the organisation of a seminar of specialists from Morocco and a number of EU Member States on the judicial fight against illegal trafficking in human beings and a seminar on improving the management of the maritime borders, which was held in Lisbon on 5 and 6 June 2000.

(b) Sri Lanka

23. The developments and military events in the Jaffna region have had a considerable impact on the humanitarian situation in the north of the country.

24. ECHO is carefully following these developments in close collaboration with the UN agencies and some humanitarian NGOs present in Jaffna. The Community has funded projects in favour of internally displaced people and returnees/resettlers focusing on relief assistance for the displaced populations of the Vanni region, and for returnees/resettlers in the Jaffna peninsula and in the districts of Trincomalee/Amparai.

25. The Asia-Oceania Working Party has examined the Action Plan for Sri Lanka and approved the general structure. The COHOM Working Party has given a favourable opinion on the measure in the Action Plan which involves raising human rights issues with the Government of Sri Lanka and, through the appropriate channels, with the LTTE.
(c) Afghanistan and the neighbouring region

26. In line with the Action Plan, the Community has continued its support in a number of areas such as humanitarian assistance, rebuilding farming systems, supporting secure livelihoods, health, education and demining. The needs of displaced persons are addressed in terms of shelter, food and security. An ECHO mission to Afghanistan, Pakistan and Iran assessed the dreadful drought situation in the region, and responses, which include funding for projects to deepen wells, food distribution and fodder distribution, were prepared. Other initiatives taken by the Community include reintegration projects in Afghanistan. These initiatives address the five priority themes distilled from the UN-led Strategic Framework for Afghanistan and set out in the principled common programming initiative. Projects are currently being implemented in all of the major regions of Afghanistan from which populations have been displaced and to which returnees have gone back. The interventions are designed to improve living conditions not only for returning Afghans but also for the communities into which they will integrate.


(d) Somalia

28. The European Union has been active in supporting the Somalian peace process within the context of the IGAD, which led to the establishment of a central transitional government in Somalia in October 2000. The government has established, as yet rudimentary, administrative structures in Mogadishu, where its control is still limited but increasing. It has been well-received by the international community and draws on popular support, but still faces resistance in Somalia itself from armed groups and administrations which have been established in the North-West and North-East of the country. The European Union and the IGAD have called upon the transitional government and these administrations to establish a constructive dialogue for national reconciliation, peaceful reconstruction of the Somalian State and the unity of the country.
29. The Africa Working Party has examined the Action Plan for Somalia and has made suggestions for updating the measures contained in it.

30. The Community has supported projects in areas such as agriculture, mine clearance, demobilisation, education, food security, livestock and fisheries. Initiatives have been concentrated particularly in the areas where stability prevails or forms of local administration exist. Efforts are being made to support local human rights and peace organisations in Somalia. The Community has taken initiatives to support Somali refugees in Kenya. The Community has also supported seminars on the possibilities for the (voluntary) return of rejected asylum seekers to Somalia and the development of a research and skills bank for linking EU personnel to Somalia.

31. The insecurity in parts of Somalia has up till now, however, had a negative influence on the possibilities for the implementation of the Action Plan. It is hoped that with the consolidation of the peace process, national reconciliation and reconstruction of the State, the possibilities for implementation of the plan will improve.

(e) Iraq

32. Although the current political situation as regards Iraq complicates the implementation of the Action Plan, some progress has nevertheless been made. Despite the difficulties, the Community is continuing its humanitarian aid in Iraq and especially in Northern Iraq.

33. The Heads of Mission in Baghdad drew up a report on the implementation of the Action Plan for Iraq (13 July 2000). This report provides for a set of measures which can be implemented at short notice in the area of foreign policy, migration and humanitarian aid. This report was approved by the Middle East/Gulf Working Party (COMEM) on 5 September 2000 and formally transmitted to the HLWG, with a favourable opinion from COMEM, following its meeting on 24 October 2000.
34. In the course of various missions to Turkey, the EU delegations had in-depth discussions on the implementation of the Action Plan and visited the border region with Iraq. Progress has been made between the EU and Turkey in exchanging information which is relevant for the development of asylum and migration policies, and migration has been included in the draft Accession Partnership. The Turkish authorities have expressed their willingness to develop closer cooperation with the EU in these matters. Under the MEDA programme, the funding of projects in the field of asylum and immigration could be considered, offering technical assistance, training sessions, exchange of experts, seminars etc.

(f) Albania and the neighbouring region

35. Although this Action Plan was the last to be adopted, much progress has been made with its implementation.

36. The Working Party on the Western Balkans Region (COWEB) examined the Action Plan for Albania and the neighbouring region (see contribution by this Working Party in 11440/00 JAI 91 AG 54). The Working Party drew attention to the context of the stabilisation and association process launched in 1999 in which implementation of the Action Plan was to take place. Accordingly, it stressed the priority nature of the actions designed to help the Albanian authorities meet the conditions for the opening of negotiations to conclude a stabilisation and association agreement, and in the medium term, the actions designed to help Albania, when the time came, to meet the requirements contained in such an agreement. It also said that the actions contained in the Action Plan should be duly taken into account when the future agreement was drawn up.

37. On the other hand, the Working Party thought that the situation in Kosovo fell primarily within the competence of the United Nations Interim Administration Mission (UNMIK), and that the European Union could contribute to its efforts.

38. The EU has indeed succeeded in inserting migration issues into the political dialogue under the Stabilisation and Association Process and other bilateral dialogues. Much has been done in terms of humanitarian support and assistance to administrative structures in a general sense. Given the scale of the initiatives taken, particular attention needs to be given to the development of structures in the field of migration and asylum.
39. At the meeting of Working Table III on 4 and 5 October in Sofia, the Stability Pact concluded that the Action Plan should be seen as positive and operational.

40. Implementation of the Action Plan must be coordinated with work under the Stability Pact for South-Eastern Europe, in which the European Union is seen to have a leading role.

III.3. Cooperation with international governmental and non-governmental organisations

41. During preparation of the action plans and the implementation phase begun on 11 October 1999, the HLWG has worked in close and fruitful cooperation with a number of international governmental and non-governmental organisations.

42. The role of the Office of the United Nations High Commissioner for Refugees in international protection of refugees makes it a vital player in the definition and implementation of a migration and asylum policy which complies with the obligations of the Geneva Convention. The Office of the High Commissioner was involved in the preparation of the Action Plans and is also involved in implementing them. More recently it received information on progress in implementing the Action Plans. In return, it informed the High-Level Working Group regarding its project for legislative reform and the establishment of effective administration in the field of asylum in south-eastern Europe.

43. As a result of their expertise and know-how, the International Organisation for Migration, the International Committee of the Red Cross, the International Labour Organisation and the International Centre for Migration Policy Development (ICMPD) have contributed to the preparation of the Action Plans and remain key actors in their implementation. Like the Office of the High Commissioner for Refugees, they have been informed of the implementation of the Action Plans.

44. Consultations with Amnesty International, the European Council on Refugees and Exiles, the Migration Policy Group and Médecins Sans Frontières took place during the preparation of the Action Plans. These organisations are also associated with the implementation process through meetings with the HLWG.
III.4. Cooperation with third countries

45. When approving the Action Plans for Afghanistan, Iraq, Morocco, Somalia and Sri Lanka on 11 October 1999, the General Affairs Council stressed the need to explore the scope for effective action with third countries.

46. Successive Presidencies have presented the work conducted by the HLWG to the American, Australian, Canadian, Icelandic, Norwegian, Swiss and Turkish authorities.

IV. Evaluation of the work of the High-Level Working Group

47. The work of the HLWG, which is both promising and difficult, paves the way for an innovative European policy on migration and asylum, taking account of the root causes of migration and its consequences, in the countries of origin and transit and in the countries of destination. It creates synergy between the various actors involved who, for the first time, have an overview of the policies undertaken in the European Union (foreign policy, development and economic assistance, migration and asylum policy) and in the Member States.

48. That overview has enabled the HLWG to propose practical cooperation measures within the European Union in order to reduce illegal migration flows. It was particularly important that such proposals be founded on an in-depth analysis of the political and socio-economic factors in the countries selected.
49. Only within the framework of dialogue and cooperation with third countries and international organisations, with the objective of promoting co-development and making development policy more effective, can the European Union hope to remedy the root causes of flight and migration from the country of origin. That dialogue must obviously be aimed at reinforcing protection for human rights, supporting the process of democratisation and promoting the rule of law, combating poverty and supporting conflict prevention and reconciliation.

50. For the HLWG to operate effectively, a chain of actors must be mobilised in the Member States and in the European Union whose interests do not necessarily coincide or whose support for the objectives defined is unequal.

51. It is no secret that the implementation of the Action Plans has encountered certain problems which the HLWG is endeavouring to overcome. Thus, during the implementation of the Action Plans, relative caution has been exercised. Aid from the European Community and the Member States represents 55% of international aid. The priorities of this policy (reduction of poverty, support for integration into the world economy, promotion of democracy and the rule of law, respect for human rights, etc.) make it possible to cover a certain number but not all of the measures contained in the Action Plans. The practical implementation of measures has at times suffered from difficulties in coordination between the national administrations concerned. The Member States have been faced with budgetary constraints. More fundamentally, the HLWG has had to cope with the difficulty of integrating objectives relating to migration into development policies.

Nevertheless, such difficulties in implementation can largely be attributed to the innovative nature of the exercise and the fact that European migration policy is still in the process of being defined following the entry into force of the Amsterdam Treaty in May 1999 and the Tampere European Council in October 1999.
52. In spite of the willingness to focus at European level the efforts of all the actors involved in a policy which could tackle the root causes of flight from the country of origin and migration towards European Union countries, few Member States have put their expertise at the disposal of the overall European policy. In addition, the agreement on financial and human resources necessary for the implementation of the Action Plans which HLWG had hoped to achieve has not yet become a reality.

53. The Action Plans combine general objectives such as "stimulating the democratic process" and technical measures such as "effective implementation of existing readmission agreements". They may therefore appear to focus essentially on security aspects. Moreover, even if the implementation of measures relating to migration policy is far from effective, some action in that area which is visible from outside the European framework has been or is being carried out. That reinforces the impression of imbalance in the Action Plans and the countries at which the plans are directed feel that they are the target of unilateral policy by the Union focusing on repressive action.

54. In new presentations of the Action Plans to the target countries, it is therefore necessary to dissipate those misunderstandings regarding an apparent imbalance. It is likewise important to ensure that the actual implementation of the plans respects the balance originally sought between the various areas (foreign policy, development, asylum and migration). It would be detrimental to the credibility of this new European Union policy to allow one aspect to predominate, owing to difficulties in implementation.

55. The exercise launched by the HLWG must overcome the reluctance of the target countries which refuse to accept unilateral implementation. The implementation of the Action Plans thus implies a genuine partnership between the European Union and the target countries. There is a danger that the sense of a lack of consultation between the European Union and the Action Plan target countries will lead to a flat refusal by those countries to cooperate in the implementation of the Action Plans. That is why cooperation between the European Union and the target countries is indispensable for the achievement of the objectives of the Action Plans. These Plans must put the emphasis on the desire for partnership between the European Union and the target countries and their implementation must involve defining reciprocal commitments accepted by common accord.
56. As a consequence, it would be useful, in order to speed up implementation, to suggest establishing a strategy common to the European Union and the Action Plan target countries in the field of migration, on the basis of the Action Plans and in an appropriate framework, for instance under the auspices of Association Agreements (where they exist).

57. Finally, the implementation of certain Action Plans must take account of the absence of authorities empowered to act on behalf of a State recognised in international law.

V. The way forward

V.1. A differentiated approach

58. The Tampere European Council underlined the need for a real "partnership" with countries of origin. With a view to promoting co-development, such a partnership will be a key element. The existence of an internationally recognised stable government with a well-established efficient administration is an important characteristic and will no doubt facilitate the implementation of the Action Plans.

59. Of the countries for which Action Plans have been adopted, Afghanistan, Somalia and Iraq do not currently have internationally recognised governments. As a consequence the implementation of the Action Plans in these countries must be different from the implementation of the Action Plans in Morocco, Sri Lanka and Albania. The non-existence of a partner requires greater attention to coordination and cooperation with international governmental and non-governmental organisations active in these countries. It also implies exploring possibilities for developing partnerships with the neighbouring countries. Although the Action Plans for Afghanistan and the neighbouring region, Iraq and Somalia already contain measures aimed at the neighbouring countries, this aspect needs to be further developed in future.
V.2. **Financing**

60. A number of measures included in the Action Plans require financial support from the Community budget. The Community has succeeded in financing most of the measures in the chapters dealing with development and economic assistance. However, in the area of migration it must be concluded that no appropriate budgetary allocation is available within the Community budget. In its resolution on the five Action Plans adopted on 30 March 2000 the European Parliament expressed its concern about this situation and proposed a new heading to be created in the 2001 budget for the implementation of measures dealing with migration issues. The Commission has proposed such a budget line for cooperation with third countries in this area. If adopted, the new financial possibilities will no doubt considerably improve conditions for the implementation of the Action Plans. During discussions on the new budget heading the possibility of financing the measures provided for in the Action Plans under already existing budget headings should not be disregarded. To facilitate the implementation of the Action Plans and to avoid duplication with other projects, the HLWG should be able to have recourse to programmes established in other fora which are compatible with the Action Plans, such as the United Nations' consolidated appeal.

V.3. **Improvement and simplification of working methods**

61. The HLWG will endeavour to improve its working methods in order to make implementation of the Action Plans more effective. For this purpose, and while mindful that Action Plans will be executed at different rates according to the situation in each of the countries concerned, the HLWG must:

– seek to intensify contacts with the authorities of the countries concerned;

– ensure the political and strategic cohesion of the implementation of the Action Plans, the practical aspects of which should continue to be dealt with at specific meetings in each country so as to increase their effectiveness;
Furthermore, the HLWG considers that the creation of a special budget heading for external actions in the field of migration and asylum should reinforce the Commission's role in the implementation process. Nevertheless, this should not prompt the Member States to reduce their efforts in this field.

The HLWG stresses the need to work in close coordination with other Council bodies which contribute to the implementation of the Action Plan.

Finally, the HLWG stresses the importance of taking into account the link between development policy and the field of migration and notes that the Council (Development) has asked the relevant bodies to continue discussions in the spirit of the Tampere European Council conclusions and invited the Commission to contribute.

V.4. The next stages

62. The HLWG's basic task is to continue with the implementation of the Action Plans while taking account of the difficulties detected and responding appropriately.

63. In due course the HLWG will have to act on the conclusions of the Tampere European Council which provided for new action plans to be established. Nevertheless, experience with the implementation of the existing Action Plans shows that attention first needs to be focused on improving the working methods in order to attain the targets set in those Action Plans. The drawing up of new action plans should be considered on the basis of experience gained from implementation of the Action Plans adopted to date. In any case, criteria will have to be determined before selecting countries or regions to be the subject of new action plans.