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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 Asylum<sup>1</sup>. 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 policy<sup>2</sup>.
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.

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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 transitting 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 migrate<sup>3</sup>. 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.<sup>4</sup>

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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

that family reunification is intrinsically linked to the right of family life as recognized by the European Convention on Human Rights. The resolution spells out which categories of family members are entitled to the right of family reunification and lays down general conditions for admission.

74. Family reunification is of considerable importance to third country nationals legally resident in the Community and the success of integration policies can be affected by the policies which apply in this matter. Given the importance of legal certainty in this area for third country nationals legally resident in the Community, a legally binding instrument, such as a Convention, could usefully constitute a firmer basis and could address remaining differences in the practices of Member States in this regard. These include waiting periods, maximum age of children entitled to be admitted for family reunification, policies on family formation as well as policies regarding the admission of unmarried partners and second-degree family members, the admission of adopted children and the legal status of the admitted family members.
75. Other aspects of admission policies currently being examined within the Council relate to the admission of students, workers and the self-employed. That work needs to be brought to a conclusion. In the case of students, the Commission believes that admission policies should be based upon the general principle that migration which promotes a better understanding and an improved knowledge of each other's societies is to be welcomed. It will also be important, however, to avoid policies creating a brain-drain effect on the countries of origin. Hence, policies should be developed to prevent people from staying after completion of their studies.
76. Admission policies concerning workers and self-employed have varied over the years, corresponding to the economic needs of the Community. In this area it seems highly relevant to agree on the basic principles governing admission policies with regard to third country nationals legally resident in one of the Member States. This subject will be dealt with more extensively in chapter III.4. as it is closely linked to integration policies.
77. As a next step in formulating the basic principles underlying admission policies concerning workers and self-employed, principles should be defined concerning the admission of other third country nationals. With the present economic and labour market situation these admission policies will generally have to remain of a restrictive nature in the short term. This implies that the setting of quotas, a measure which has been suggested as a means to alleviate migration pressure, does not correspond with the existing economic situation in the short run.
78. The longer term approach to the issue of labour-related migration will also of necessity have to take account of developments in the economic and labour market situation in the Community. A new emphasis has been given to the promotion of growth and competitiveness and combatting unemployment by the Commission's White Paper on Growth, Competitiveness and Employment. A longer term perspective will equally require the impact of demographic changes on the

labour market to be taken into account. It will therefore be necessary to monitor closely labour market developments in order to ensure that admission policies are capable of adapting to new demands. Such analyses should also be able of distinguishing between short-term conjunctural developments and structural changes, as what is needed is a clear picture of the long term development of labour supply and demand. If it were to be established that there was a long -term need for additional labour supply, the analysis should proceed defining costs and benefits of allowing for migration in order to fill up these gaps. Only if it were to be established that the net effects would be positive, the setting of quotas should be considered.

79. Irrespective of the outcome of such a general analysis, there are good reasons to refrain from applying restrictive policies in case of temporary work schemes, especially those developed under the root causes approach, provided that this does not amount to "job rotation" and admission of seasonal and frontier workers, categories which would need to be precisely defined.
80. An area of admission policy which has yet to be addressed is the question of admission on humanitarian grounds. As was explained in the 1991 work programme, harmonisation of this policy is difficult, as by definition admission for humanitarian reasons is based upon the specific circumstances of each individual case. What might usefully be done at this stage, however, is to examine the extent to which Member States' existing practices allow for the admission of specific vulnerable groups in this regard. Special attention could, for example, be paid to the position of women who are the victims of trafficking or sexual harassment as one such category, a group about which the European Parliament has recently expressed its concern.

### III.3.3. Refugees and other persons in need of international protection

81. From an analytical point of view, migratory movements and migration pressure should be examined in all their forms, i.e. irrespective of the question whether they are asylum-related or not. At the same time, however, the arguments that were developed in the 1991 Communication on the right of asylum are still valid: asylum policies are distinct in that they are aimed at meeting a humanitarian challenge. The principle of non-refoulement, as embodied in the 1951 Geneva Convention, requires States Parties to be scrupulous in establishing which asylum-seekers are refugees in the sense of article 1A of the Geneva Convention. Refugees are entitled to protection. By not providing such protection, States Parties would contravene the most basic principle of the Geneva Convention and, since this Convention has been explicitly mentioned in Article K2 of the TEU, even violate that Treaty itself. It is by definition impossible to curb the number of refugees to whom Member States are required to give protection. Asylum policies are therefore different as they are aimed at managing the examination of asylum applications in such a way that every application can be considered in a fair and efficient manner.

82. The 1991 work programme and the 1991 Communication on the Right of Asylum analysed the various aspects of asylum policy that would have to be harmonised. Considerable progress has been made in setting out the guiding principles in various resolutions. The plan of action approved by the European Council at its meeting in Brussels in December 1993 identified the following issues for priority attention in 1994:

- (a) harmonised application of the definition of "refugee" in accordance with Article 1A of the Geneva Convention;
- (b) the establishment of minimum standards for asylum procedures.

The steps necessary to give effect to these priorities are considered in the following paragraphs together with some suggestions for actions on other related issues.

(a) harmonised application of the definition of "refugee"

83. Harmonisation of the application of the definition of "refugee" requires attention to be given to two distinct aspects: on the one hand, general indicators need to be developed with regard to legal aspects of the concept of refugee; on the other hand, country of origin related indicators are needed to supplement these general indicators in order to make them applicable to individual cases. The Council has therefore decided that the appropriate expert groups within the Council framework should take forward the work on both of these aspects. UNHCR has already stated its readiness to contribute to this work. The Commission welcomes these developments which may pave the way for an important standard setting exercise.

(b) minimum standards for asylum procedures

84. The increase in the number of asylum-seekers has prompted Member States to take action in order to develop more efficient asylum procedures and to set up a mechanism between themselves for determining which Member State should be responsible for dealing with a particular asylum application (i.e. the Dublin Convention). That Convention also represents an important compensatory measure for the realisation of a European area without internal borders.

85. Whereas these approaches all have a useful role to play, the introduction of pre-screening procedures aimed at excluding certain categories of asylum applications from the more substantive examination procedures, with a view in particular to identifying manifestly unfounded applications, carries the risk that Member States, unless they take great care, may involuntarily find themselves violating the principle of non-refoulement. It will therefore be difficult to exclude whole categories from the substantive part of the asylum procedure: as reaffirmed in the 1992 resolution on manifestly unfounded asylum applications, each request should be examined on an individual basis, as the asylum seeker needs to be given the chance to explain why he or she would be an exception to the general rule of inadmissibility, even if he or she comes from a country in which there is generally no reason to fear persecution or if there is a third host country.

86. The resolutions adopted in 1992 on manifestly unfounded asylum applications and on the third host country concept were the first step Immigration Ministers took to lay down harmonised standards for the asylum procedure. The Commission believes that ensuring legal certainty in this matter for both asylum applicants and the Member States may warrant the subject matter of those resolutions also being dealt with more comprehensively by way of a Convention.
87. In addition, the development of fair and efficient procedures requires agreement among Member States on the basic principles underlying the asylum procedure in their countries. Although this sensitive question touches on the basic legal tradition of each individual Member State, consideration could be given to the possibility of defining objective criteria for fairness and efficiency, which would set a certain general framework, while leaving it to each individual Member State to fill in the exact nature of the asylum procedure. Guidance on the principles involved can be found in various EXCOM<sup>5</sup> Conclusions as well as in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status.
88. Criteria for efficiency would relate to the access to and duration of the various stages of the asylum procedure. They should reflect the need to keep asylum accessible. Apart from the considerations mentioned above based on internationally approved texts, migration management requires such an approach: in the absence of active measures to reduce migration pressures, would-be asylum seekers may turn to illegal immigration if asylum procedures are no longer accessible to all. It is unlikely that the costs involved in effectively countering such illegal movements would be any less than actual costs of dealing with the asylum requests. The advantage of the asylum procedure, however, is that in the majority of cases, and especially in case of manifestly unfounded applications, the whereabouts of asylum applicants is known or is readily ascertainable, whereas, in the case of irregular movements, almost by definition a considerable effort will be needed to locate the people concerned.
89. Criteria for fairness would, inter alia, relate to appeal rights and reception conditions. As for the latter, Member States' practices are still quite different and it may be difficult to achieve full harmonization: the 1991 work programme and the 1991 Communication on the right of asylum did, however, indicate that approximation of reception policies should be possible. These criteria should moreover give attention to the procedures that would apply with respect to particularly vulnerable groups, such as women and (unaccompanied) minors. These groups often require special treatment, taking into account the specific difficulty they may have in presenting their asylum case.
90. The adoption of criteria for fair and efficient procedures of Union-wide application would represent a significant step forward towards a common asylum policy.

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5 Executive Committee of UNHCR.

(c) Other necessary actions

91. Beyond the immediate priorities identified by the European Council attention could also now usefully be given to the problem mentioned in the 1991 work programme concerning cases that do not fall within the terms of Article 1A of the Geneva Convention, but where it is the general policy of each Member State, not always for identical reasons, not to require the individuals concerned to return to their country of origin. As this involves in practice considerable numbers of cases, some degree of harmonisation would seem worth seeking.
92. Moreover, recent experience, notably the lessons to be drawn from the tragedy in former Yugoslavia, suggests that the issues of temporary protection and temporary absorption problems should now be addressed too.
93. Member States have responded in a number of different ways to the problem of people fleeing former Yugoslavia, often by introducing schemes offering temporary protection for vulnerable groups, hence avoiding a massive recourse to asylum procedures. These schemes are indeed to be welcomed as a positive step to deal with mass influx situations. Some Member States have adopted specific legislation to provide for a solid legal basis; other Member States used the mechanism of extending temporary stay. At least two Member States have gone further by examining the individual asylum applications and allowing a large number of the persons concerned admission as a refugee or for humanitarian reasons. It would be possible to build on this experience and harmonise these schemes with a view to elaborating a uniform European scheme for temporary protection. Such a harmonisation would avoid the redirection of this type of migratory flows on the basis of differences in national legislation. It would also guarantee a minimum level of protection to the persons concerned, irrespective of the Member State offering this protection.
94. Such a harmonised approach would have to address the following questions:
  - how to identify a particular situation as giving rise to the need for temporary protection;
  - the legal rights of people who have been granted temporary protection;
  - the period of time after which admission for long-term stay should be granted.
95. As for the first question, the factors to be taken into account would include: the occurrence of mass influxes or the expectation that such mass influxes are about to reach the Union; an indication from UNHCR that no adequate assistance and protection is available in the region of origin, or that the Union itself could be considered to be part of the region of origin, as in the case of former Yugoslavia. A decision that a particular situation gave rise to the need for temporary protection would also have to address the issue of who should benefit. In some cases, temporary protection would have to be extended to all groups involved; in others, it might be possible to draw up criteria for specific vulnerable

groups; and in others, the scheme might be open only to those groups that have been identified by UNHCR or other relief organisations.

96. Any temporary protection scheme would need to establish the legal rights of those concerned. The key feature of these schemes is their temporary nature but the total duration of the protection depends on the developments in the country of origin. It would therefore be necessary to evaluate at regular intervals whether the protection scheme has to be continued or whether orderly return programmes could be initiated. An equitable balance between the interests of the persons involved and the interests of Member States would need to be found.
97. The third question will arise where the situation in the country of origin remains of such a nature that temporary protection is necessary for a long period of time. The issue then will be whether it is still justified to send the persons in need of international protection back to their country of origin when the situation in that country has finally improved. It is inevitable that the longer a person stays in a country, the more ties he or she develops with it. When temporary protection stretches out for a period of several years, it is very likely to be accompanied by a certain level of integration, until the point is reached when it is no longer reasonable to require the people concerned to go back to a country with which they may no longer feel close links, even though it is their country of origin.
98. Another issue to be addressed in the context of migration control is an effective policy to cope with temporary absorption problems. Experience has shown that in the case of sudden mass influxes of people in need of international protection, there may be temporary shortages of housing and other facilities. So far, no consistent monitoring of absorption problems takes place. The Union could take the lead in setting up such a monitoring system, on the basis of an exchange of views on best practice learned from past experience. A permanent form of co-ordination between the various departments involved could be set up. It would then be possible to make the necessary arrangements on the basis of estimations of numbers and costs involved and to create contingency plans for emergency situations. On the basis of this information, the Union could try to establish some matching of national absorption capacities.
99. Such a matching system would not necessarily have to amount to a formal arrangement for burden sharing, but would offer reciprocal assurance among Member States that, when they are confronted with serious problems in implementing their reception policies, they would not stand alone, but could reckon with active support from other Member States and from the Union itself.
100. In the context of such a matching system, it is noteworthy that the European Parliament has asked the Commission to submit a proposal for the creation of a European Fund for Refugees<sup>6</sup>. It seems

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6 Paragraph 7 of Resolution A3-0280/92 adopted by the EP on 18 November, 1992.

logical that any such fund might be used for emergency situations facing Member States, for example mass influxes, where, on a strictly voluntary basis and/or for geographical reasons a Member State may find itself undertaking responsibility for more people in need of international protection than it would have to under the criteria laid down in the Dublin Convention. It could equally be used to assist Member States which lack the necessary administrative capacity when faced with new pressures.

101. The Community and its Member States should not just look inward: the application of the principle of third host countries to countries of transit will affect in particular the neighbouring countries of Central and Eastern Europe which often turn out to be countries of transit. Debates within the Council of Europe and a recent UNHCR report demonstrate that the implementation of asylum policies poses severe budgetary and operational problems for these countries. In order to assist them, UNHCR is involved in institution-building focussing on the setting up of fair and efficient asylum procedures. The Union should take an active interest in these activities, since the successful application of the principle of third host country vis-à-vis the Central and Eastern European States will depend on how these countries can cope. A European Fund for Refugees might be a source of finance for projects involving NGOs operating in Central and Eastern Europe.

#### III.3.4. Illegal immigration

102. With migration pressures increasing and opportunities for legal migration being increasingly restricted, people wanting to enter the Union are likely to continue to turn to illegal immigration. The comprehensive policy as advocated in this communication requires a firm and clear policy to counter these movements. Illegal forms of migration undermine the effect of admission policies, are detrimental to policies aimed at the integration of legal immigrants and put the people concerned in a vulnerable position. The Union therefore requires an active policy to prevent and combat illegal migratory movements.
103. Illegal immigration takes a number of forms. Persons may, on the one hand, seek to enter the territory of the Community illegally by evading immigration controls or by the use of false documents. In other cases persons who have entered the Community lawfully may place themselves in an irregular situation by overstaying or otherwise acting in breach of the terms of their admission (e.g., taking up employment).
104. Work on the relevant measures contained in the 1991 work programme has focussed on expulsion. Immigration Ministers in June 1993 adopted a Recommendation concerning checks on and expulsion of third-country nationals residing or working without authorization. The comprehensive approach to counter the problem of illegal immigration requires action at a number of levels. Four main elements can be distinguished:



- (a) measures designed to prevent illegal immigrants entering the territory of the Community;
- (b) measures designed to identify persons illegally resident in the Community;
- (c) defining minimum standards for the treatment of illegal immigrants; and
- (d) measures to facilitate the repatriation of illegal immigrants.

(a) preventive measures

105. Actions to deal with root causes of migration pressure have been discussed in section III.2.2. Beyond those measures, combatting illegal migration requires preventive action before the people concerned reach the Union. Work is under way within the framework of the Council in regard to exchange of information on routes and traffickers, but needs to be made more systematic. In this respect close co-operation with transit countries and countries of origin would provide valuable help in obtaining the necessary information in order to take action against the traffickers concerned. In countering identified traffickers care must be taken not to block off any possibility for persons in need of international protection to leave their country of origin.
106. Rigorous controls at the external frontiers and visa policy will also play their part in discouraging and combatting illegal immigration. The revised draft Convention on the crossing of external borders, recently tabled by the Commission, clearly sets the framework for systematic and effective border controls. The first priority should now be adoption of this Convention. There will in the longer term also be a need to monitor its implementation. Consideration will also be given to measures to support specific projects in the case of Member States who face problems because of their particular geographical position.

(b) Measures designed to identify persons illegally resident in the Community

107. Preventive measures and more systematic border controls of the kind envisaged above will be important in combatting illegal immigration, but cannot be completely effective in stopping it. Measures which permit the identification of persons within the Community in an irregular situation will therefore continue to have an important role to play as well. This issue has been touched upon by the 1993 Recommendation on expulsion policies which mentions, inter alia, the importance of internal checks. This is undoubtedly sensitive territory since the location of migrants in an illegal situation is generally a police matter which needs to be set in the context of a wide range of other priorities, of which the general fight against crime is probably the most important.
108. The 1991 work programme together with the 1991 Communication on Immigration offered other solutions to this complex problem. The focus there was on efforts aimed at making it difficult in practice for people in an irregular situation to remain. The various

Income sources for such people offer a useful point of departure. Generally, there are two main sources of income: benefits from various public support schemes and income from illegal employment. In the introduction to the 1991 work programme it was stated that "it must be ensured that social measures do not offer an invitation to illegal residence given that, for humanitarian or emergency reasons, illegally resident persons could qualify for such measures". And secondly, that "policies for reducing illegal employment will have to be intensified. Here the role of the employer as guilty party who takes advantage of the precarious position of the foreigner in a situation of illegal residence must take centre stage". The 1991 Communication on Immigration was even more specific on the latter subject:

" The Commission would be prepared, in the interest of efficiency, to submit a suitably revised version of its proposal on the approximation of Member States' legislation on measures to combat illegal immigration and the attendant question of unauthorised work. In this connection, successful public contract tenderers could be obliged to provide evidence of compliance with the rules of labour law and principals could be held liable in the event of non-compliance with the rules on clandestine employment by their sub-contractors, or the temporary employment businesses used by them."

In its resolution of 18 November 1992, the European Parliament also identified combatting illegal employment as an important element in the fight against illegal immigration. The Commission remains of the view that the approximation of legislation to combat illegal employment would contribute to the fight against illegal immigration. The Commission will table proposals to secure that objective.

(c) Defining minimum standards for the treatment of illegal immigrants

109. Although generally firm and effective action against illegal immigration is essential for the reasons outlined above, it should not be forgotten that the persons concerned can be subject to exploitation and be in an extremely vulnerable position. It should therefore be taken into account that they are entitled to a fair procedure ensuring full protection of the human rights and fundamental freedoms as provided by international law. To this effect, defining minimum standards will be a necessary step which will equally help ensure the credibility of restrictive policies concerning illegal immigration.

110. A measure which would give practical expression to this goal would be signature and ratification by Member States of the UN Convention on Migrant Workers and Members of their Families<sup>7</sup>. This convention is unique, as it lays down the human rights of migrant workers, including those who are in an irregular situation. The

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<sup>7</sup> Ratification of this Convention is also desirable for the protection of the rights of third country nationals legally resident in the Community (see section III.4.)

Convention makes it clear that human rights and fundamental freedoms are applicable, irrespective of the legal status of the migrant concerned. This could be supplemented, if necessary, by an instrument of the Union.

(d) measures to facilitate the repatriation of illegal immigrants

111. The fourth element is the repatriation of those who are found to be in an irregular situation. The best form of repatriation remains voluntary return and schemes that have been set up in some Member States, often in close co-operation with the IOM, to stimulate voluntary return offer one such possibility. These schemes can be cost-effective, when compared with the costs involved in involuntary repatriation, and can therefore be attractive to both governments and the people concerned. It is important, however, that these schemes should not have the unintended effect of encouraging illegal immigration. Although no effort has been made to approximate such schemes among Member States, there would seem to be a case for doing so, in order to avoid disparities in this respect between Member States.
112. Expulsion is the solution of last resort with regard to people found in an irregular situation who are not prepared to leave the territory voluntarily. Expulsion is a necessary instrument to make it clear that illegal immigration will not be tolerated. Member States have, however, faced practical difficulties in implementing repatriation policies in specific instances. Such difficulties can arise where there are no direct transport connections between the Member State and country of origin concerned or where the country of origin is unwilling to cooperate.
113. Immigration Ministers no doubt had the first of these difficulties in mind when they adopted a Recommendation regarding transit for the purposes of expulsion in November 1992. According to this Recommendation, Member States have undertaken to facilitate transit through their territories with a view to enable the expulsion repatriation to take place. Consideration should be given whether similar arrangements could be established with third countries.
114. Readmission agreements with third countries were identified in the 1991 Communication on Immigration and the 1991 work programme as a means of solving the problems that can sometimes arise with countries of origin or transit. Conclusions on the guiding principles for the purpose of the elaboration of such agreements with third countries have been recently approved by the Council of Justice and Home Affairs. Those principles now need to be translated into formal agreements of the Member States with relevant third countries. In this respect it is to be welcomed that the Budapest Conference which was held in February 1993 and in which almost all Central and Eastern European States participated, agreed on the relevance of such readmission agreements in the European context.
115. The Council also approved the principle of establishing a link, wherever practicable, between readmission agreements and practices on the one hand and the external agreements of the Community and

its Member States on the other. In this way the conclusion and implementation of such readmission agreements could be facilitated. Giving effect to that decision requires follow-up action from both the Commission and the Council.

116. Such readmission agreements may have important consequences for the countries concerned. As transit countries, they may be faced with considerable burdens, not only of a financial but also of a technical nature, as they will have to take charge of the repatriation of the persons concerned. Even the re-integration of its own nationals may put additional strains on the national labour market or government assistance schemes. The Union will need to show sensitivity for these aspects in an active assistance policy which can be incorporated into its general policies towards such agreements with the countries concerned.
117. Specific policies could also usefully be considered for certain vulnerable groups. An example of such a group would be unaccompanied children. Many Member States have developed guidelines on the extent that children below a certain age should not be returned, if there are no relatives or guardians that will take care of them upon return. Other Member States, however, do regularly repatriate children, even without such guarantees. This therefore offers another area where the establishment of minimum standards would be desirable. Similarly, policies in regard to victims of sexual exploitation should ensure that repatriation of the victims does not prevent legal action to be taken against persons responsible for that exploitation.

111.4. Strengthening integration policies for the benefit of legal immigrants

118. The Commission believes that integration policies and immigration policies are closely linked. Society's readiness to accept the inflow of new migrant groups depends on how it perceives government to be in control of the phenomenon. As was stated already in the Braun report<sup>(8)</sup>:

"We cannot refer to the integration of immigrants already established without also considering the new inflows of migrant workers, family members, asylum seekers and illegal or clandestine immigrants, since the rate and volume of arrival of such people undoubtedly affect the integration process".

More importantly, nearly all Community countries have now become countries of immigration. The immigrant population is estimated at nearly 10 million third country nationals legally resident in the Member States. The nationalities representing a total population within the Community of more than 100.000 persons were: Austria, Turkey, Yugoslavia, Algeria, Morocco, Tunisia, USA and India<sup>(9)</sup>.

119. Integration is therefore an issue for all the Member States. It means offering migrants and their descendants the opportunity to live "normally" in the host country. That requires providing migrants with sufficient resources (knowledge of the local language, housing, education, vocational training etc.) to enable them gradually to attain "parity" with the national population. From the immigrants themselves it requires the willingness to adapt to the lifestyle of the host society without losing their cultural identity and acceptance of the fact that equality of rights entails equality of obligations. This approach now seems to be widely favoured in the Community countries.

120. While there is now a general recognition of the need for an active integration policy in all the Member States, those policies themselves need to be continuously monitored and developed if they are to be capable of responding effectively to the changing characteristics and needs of those migrant communities already established within the Community and new entrants. That is why integration policies remain at the very heart of the political debate.

121. The tendency within Member States is for bodies at both central and local level to be given responsibility for implementing policy and for those bodies to be supported by a variety of voluntary associations. Difficulties in achieving consistency become greater where the number of actors involved is large. The allocation of subsidized housing, which often entails the involvement of the State, district authorities and specialist bodies, offers one such example. The effectiveness of integration policies can also be endangered by those who seek to exploit the issue of immigration

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(8) "Policies on Immigration and the social integration of Migrants in the European Community", SEC(90)1813 final, point 21.

(9) See Annex I, table 8 A,B,C.

for political purposes. These difficulties must, however, not be allowed to obscure the rewards, for each Member State and the Community, of successful integration policies.

122. There have been many calls by the European Parliament since the publication of the 1991 Communication on Immigration for the Commission to prepare and table framework directives relating to integration policies for third-country immigrants and resolutions on the fight against racism and xenophobia. The Commission sees considerable value in use being made of the possibilities offered by the TEU, including its Title VI, which provides for the possibility of joint action on policy regarding nationals of third countries, for the development of common approaches of these issues. Some specific suggestions for such an approach are contained in subsequent paragraphs of this section.

123. For this purpose, it is useful to distinguish between policies for improving the situation of third-country nationals, policies aimed at creating the right economic and socio-cultural environment for successful integration, policies to meet information needs and to promote dialogue, and policies aimed at combatting racism and xenophobia.

#### III.4.1. Improving the situation of third-country nationals legally resident within the Community

124. Any successful integration policy must of necessity include several components. The first essential elements are the prospect and security of permanent residence status. Security of stay and permanent residence for all those satisfying stability criteria constitute the fundamental prerequisites for successful integration. Without this foundation, uncertainty will pervade other aspects of the integration process such as family reunification, access to employment, housing, health, education and training etc. Moreover, an immigrant's own commitment to integration depends to a large extent on whether he feels secure in his residence status. For this reason the Commission suggested in its 1991 Communication that consideration should be given to the creation of a jointly agreed permanent residence entitlement which could be granted after a qualifying period.

125. Special attention also needs to be given to the residence status of members of the family of legally resident immigrants. A situation where family members continue to be dependent on the status of the immigrant, even after a long term residency is unsatisfactory. Children or grandchildren of immigrants who have not become nationals of the Member State in which they live but who themselves have been resident in the Member State for an appropriate qualifying period should be able to enjoy security of status when they are above school age. Similarly, foreign-born spouses of established immigrants or nationals should enjoy independent residence rights after a qualifying period. For these persons there must be a reasonable expectation that they can stay in the event of the breadwinner's death, divorce or departure from the country.

126. Another area which would merit attention is the requirement, in some Member States, for a separate residence permit where a permit for economic activity was already granted. Such requirements create overlap and insecurity for the immigrant. Overlap is costly and unnecessary whilst insecurity runs counter to the goal of integration.
127. In its 1991 Communication the Commission also expressed as its opinion that the logic of the internal market implied the elimination of the condition of nationality for the exercise of certain rights. A first step in this respect would be to enable third country nationals to move freely around within the Union on the basis of their residence permit, which would replace any existing visa requirement. The Schengen Agreement provides such a right of free circulation, but is applicable to the Schengen-countries only. The Commission believes that this right should also be ensured for the Union as a whole. In this respect, on the one hand, as far as the crossing of external frontiers is concerned it has proposed giving residence permits of third country nationals legally resident in one of the Member States the equivalent value to a visa. This proposal has been included in the draft Convention on the crossing of the external frontiers of the Member States which it has submitted to the Council<sup>10</sup>. On the other hand, in order to allow third country citizens legally resident in a member State to circulate freely within the Union for short-stay periods, the Commission intends to come forward with a proposal which would allow them to enter the territory of another Member State without a visa, even in cases where the Member State concerned would otherwise require one for nationals of the third countries in question.
128. Another element to which consideration should be given is free movement for the purpose of engaging in an economic activity. The Social Partners represented in the Permanent Committee on Employment requested on 14 May 1992 that obstacles to taking up employment in another Member State for nationals of third countries who have a permanent residence status in one Member State should be eliminated. This idea had already been reflected in the 1991 work programme, which foresaw the "examination, within the appropriate fora, of the possibility of granting third-country nationals who are long-term residents in a Member State certain rights or possibilities, for example concerning access to the labour market."<sup>11</sup>.
129. Steps now need to be taken to realise that objective. A first step towards improvement in this area would be for Member States to accord priority to third-country nationals permanently and legally resident in another Member State, when job vacancies cannot be filled by EC nationals. Allowing such third country nationals access to employment in another Member State in response to an offer of employment would represent a further step in this direction. The situation of self-employed persons seeking the right of establishment in another Member State would also need to be addressed.

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10 COM(93)684 final, submitted to the Council on 10 December 1993.

11 WGI 930, page 6

130. In the introductory part of the 1991 work programme it was stated that "from the view point of social justice, the general approach ... should be to examine which rights third-country nationals should be able to enjoy among those enjoyed by Member States nationals<sup>12</sup>. In its 1991 Communication on Immigration, the Commission stated that "...equality of treatment for legally resident immigrants is a fundamental objective for the whole of society"<sup>13</sup>. Member States should now review their legislation in order to remove conditions of nationality for the exercise of rights or the granting of benefits, which are no longer justified for objective reasons.
131. In the 1991 Communication, the Commission stated that the observance of commitments undertaken in agreements with third countries providing for equal treatment of the workers of these countries in matters of remuneration, working conditions and social security, should be ensured. The Commission continues to use the means at its disposal to monitor strict implementation of the provisions of these agreements in the Member States, in the light of the case-law of the Court of Justice.
132. The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, adopted by the General Assembly of the U.N. on 18 December 1990, requires 20 ratifications for its entry into force. Ratification of this Convention by the Member States would constitute the expression of the value attached by the Union to improving the position of migrant workers and their families resident in the Union and ensure that the rights accorded to them correspond to the highest international norms.
133. The laws governing naturalisation and nationality vary greatly as between Member States, reflecting different historical and philosophical concepts of citizenship. As is made clear by the "Declaration on Nationality of a Member State" annexed to the Treaty on European Union, the question of whether an individual possesses the nationality of a Member State shall be settled solely by reference to the laws of the Member State concerned. Naturalisation is nevertheless potentially an important legal instrument to facilitate the integration of resident immigrants and subsequent generations born in the country. The benefits of naturalisation for legally resident immigrants include permanent residence, freedom of movement in the Community and the enjoyment of full civic and political rights. It can also be an important factor in motivating the immigrant to learn the language and use and contribute to national and social institutions.

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12 WGI 930, page 28

13 SEC(91)1855 final, paragraph 59



III.4.2. Creating the right economic and socio-cultural conditions for successful integration

134. Employment of immigrants and ethnic minorities continues to be hampered by inequalities in the labour market which result from the absence of qualifications, the vulnerability of the industries in which immigrants have traditionally been employed, inadequate schooling or poor knowledge of the language of the Member State in which they reside, the limited employment and career perspectives open to immigrants and discrimination (generally disguised) at the recruitment stage. Community instruments and policy to combat unemployment and exclusion should pay particular attention to the position of immigrants. Measures taken under the Social Fund should take account of their special needs.
135. Other elements relevant for successful integration are housing and health. Difficult housing conditions and access to health services are not limited to immigrants, however. These questions are therefore addressed in the Community programme against exclusion.
136. Immigrants face the same labour market pressures as nationals of Member States but can also suffer disadvantages specific to them. The problems encountered by immigrants on the labour market also vary with age and sex. While special measures and training opportunities are offered to the 15-25 year old age group, these should be capable of taking account of the special needs of immigrants and members of ethnic communities. Likewise, persons in the 23-30 year age group can be particularly vulnerable: often they have arrived to join their families and started school at a late stage. In those cases their qualifications may be inadequate and they may not speak the language very well. This age group, together with the first-generation unemployed, have little likelihood of finding a suitable job and require special measures. Immigrant women and young girls can encounter even more serious barriers in regard to training, employment and finally promotion. Those problems reflect only part of the picture. The majority of immigrants are of course, well integrated in the labour market and continue to make an important contribution to national economies as workers and professionals and through the creation of small and medium-sized enterprises.
137. Article 2(3) of the Agreement on Social Policy, which provides for Community legislation in the area of employment conditions of third-country nationals who are legally resident in the territory of the Community, creates a new basis for proposals by the Commission in this area.<sup>(14)</sup>
138. The Directive<sup>(15)</sup> on the education of migrant workers' children represents a basic point of reference although its application is limited to children of nationals of the Member States who move

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(14) See the Communication concerning the application of the Agreement on social policy presented by the Commission to the Council and to the European Parliament - COM(93)600 final of 14 December 1993).

(15) Directive of 25 July 1977, O.J. no. L199 of 06.08.1977

within the Community. In a Declaration in the Minutes of the Council, however, Member States expressed the political will that the measures taken by them should equally respond to the needs of children from third countries.

139. In addition, since 1976, the Commission has, in cooperation with Member States, promoted pilot projects on the education of migrant children, including children from third countries. These gave priority to improving school provision for the teaching and learning of the host country, as well as on the training of teachers responsible for such teaching, as the key prerequisites for successful education integration of young immigrants, including those of the second generation, many of whom continue to have specific language needs. Additional emphasis was given to mother tongue education for immigrants, to support their self-esteem and cognitive development, and as a contribution to Member States' effort to diversify their language education provision. It is expected that such cooperation will be extended further in the framework of the new action programme (SOCRATES). The Commission's proposal for a programme on vocational training (LEONARDO), includes action to support equal opportunities for access to initial and continuing training for disadvantaged groups. This opens the way for such measures to be targeted more specifically at young immigrants, especially as the Commission's policy is to articulate, at both policy and operational level, the implementation of the policy objectives as set out in Articles 126 and 127 of the TEU. ELAINE, see below, is also involved in an urban education co-operation project focussing on language learning in multicultural settings which the EuroCity network conducts with support from the Commission.

#### III.4.3. Information and dialogue

140. The spread of information through expert networks contributes greatly to the know-how of persons involved in integration. The Commission supports two such networks, one of which RIMET (Réseau d'Information sur les Migrations Des Etats Tiers) publishes a yearly report on the situation in the Member States. The report covering 1992 describes attitudes towards control, labour market requirements and the challenge of integration<sup>(16)</sup>. The other, ELAINE (European Local Authorities Interactive Network for Ethnic Minorities Policies), promotes an interactive exchange of experience between local authority officers dealing with immigrants at the local level. Use of these networks will be expanded.
141. A mechanism at the Union level which would enable agencies responsible for coordinating integration policy at the national level and others responsible within national administrations for policy in these matters to monitor developments and exchange information and experiences would be valuable. Such a network could be organised within the framework of the concertation procedure, instituted by the Commission's decision of 8 June 1988<sup>(17)</sup>.

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(16) V/5819/93, June 1993

(17) 88/384/CEE

142. In its Resolution of 16 July 1985 on guidelines for a Community Policy on migration<sup>18</sup>, the Council recognized the desirability of a dialogue at Community level with associations of migrant workers. For this purpose the Migrants Forum has been founded on a European Parliament Initiative with Commission funding but politically independent.

The Forum has defined the following objectives:

- establishing dialogue and exchanging information between the European community institutions and the populations resulting from migration;
- improving inter-ethnic and inter-community relations in the European Community through its own initiatives;
- promoting generally the interests of migrants and refugees originating in non-Community countries (third countries);
- achieving equal rights, free movement including the right to work and the right of establishment, and the right to vote, for immigrants.

Support groups have been or are being founded in each Member State, with the objective of broadening the democratic base, structures and representation of the Forum. The Commission will continue to support the Forum.

#### III.4.4. Combating racial discrimination and tackling the problem of racism and xenophobia

143. As demonstrated by the adoption of a formal Declaration and a Plan of Action by the Heads of State and Government of the Council of Europe Member States (Vienna, October 1993), policies on non-discrimination have become the more urgent with the recent surge of racial and xenophobic tendencies. Manifestations of racism and xenophobia in several Member States which have included physical attacks, arson and murder, demand and require a response. Although the responsibility for tackling this issue lies with Member States, the Commission has sought to promote and facilitate debate at Union level on this issue. To that end it undertook a comprehensive assessment of the legal instruments implemented in the various Member States to combat all forms of discrimination, racism and xenophobia. The results of that survey were published under the title "Legal Instruments to combat Racism and Xenophobia". That study concluded that Member States need to look to the systems of legal redress for racist acts available to their residents, to provide the means for legal redress when they are lacking, ensure they are implemented with vigour and campaign to inspire confidence, in victim and perpetrator alike, that transgressions will be prosecuted. The Commission intends to arrange for that study to be revised and updated in 1994.

144. The Commission has also sought to facilitate action at other levels and supports financially many NGO projects under the headings of "human rights" and "migrant integration" whose focus is either directly or indirectly anti-discriminatory and pro-integration. The Commission will continue to use the different instruments available to it to promote initiatives of this kind.
145. National systems of monitoring racial harassment incidents to provide reliable statistical information on trends are needed. Concurrently with the above, education of public servants coming into contact with ethnic minorities should be improved, specifically teachers, police and staff of immigration, housing, health and social security departments. The attention of those responsible for providing information should be drawn to the importance of the role they can play in eliminating racial prejudice, via codes of good practice.
146. The Social Partners should also be involved in this process and could usefully be encouraged to draw up codes of practice on good community relations in the work place, such as a Community Code of Practice prohibiting racial discrimination in employment for which the framework of the Social Dialogue, instituted by the Agreement on Social Policy attached to the TEU could be used. The aim of such a Code would be to combat racism in the workplace through the preparation of Community-level guidelines prohibiting race discrimination and offering guidance to the social partners on good practice. Preparatory work to this end is already under way, in consultation with the Social Partners and in cooperation with national experts and researchers.
147. The issue of racism and xenophobia was the subject of a Joint Declaration by Parliament, Council and the Commission in 1986. Since then, the fight against racism and xenophobia has been identified as a priority objective by the European Council, and the European Parliament has many times called for appropriate action. In order to encourage young people to become aware of and recognize the intrinsic value of cultural diversity, the Commission's recent proposal for an action programme in the field of youth (Youth for Europe III) provides for support for projects aimed at combatting racism and xenophobia and is addressed to all young people living in the Member States.
148. The Council of Justice and Home Affairs recently adopted conclusions recognizing the importance of the work of the European Parliament in this area and endorsing a series of measures intended as a first step to promote improved cooperation between Member States to prevent racist and xenophobic acts. The Council also recognized that further concrete measures may be necessary.
149. The Commission believes that scope exists for improving cooperation at the Union level in the fight against racism and xenophobia. The conclusions adopted by the Council recognize the need for a comprehensive response involving a multi-agency approach and a number of different elements - improved data collection, training and cross-border co-operation. Work will now be needed to further

develop proposals in these and other areas as tools in counteracting racist attitudes, acts and discrimination so as to ensure that all the possibilities offered by the new Treaty framework are fully utilized.

#### IV. SUMMARY: A NEW FRAMEWORK FOR ACTION BY THE UNION

150. Chapter III contains a number of proposals designed to develop a European Immigration and Asylum policy. Those proposals are intended as ideas to be discussed and elaborated. They are not intended to lay down a definitive work plan at this stage but offer instead a framework, which Member States and the Commission itself will want to consider, in drawing up the new action programme which is now required to take account of the possibilities offered by European Union and enable it to pursue an active and comprehensive migration policy. This final chapter summarizes these ideas.

#### TAKING ACTION ON MIGRATION PRESSURE

1. Improvement of the collection of accurate information on, for example:
  - migratory flows into the Union;
  - the causes underlying these flows;
  - estimated migration pressure and corresponding migratory flows.
2. Consideration to the establishment of an "observatory" for migration and the role it could play in meeting the information needs of a comprehensive approach to the challenges of immigration and asylum.
3. Definition of actions to be taken in order to tackle root causes of various types of migratory movements in accordance with the European Council's 1992 Declaration on Principles governing the External Aspects of Migration Policy. Those actions could involve:
  - human rights policies;
  - humanitarian assistance;
  - security policy;
  - demographic policies;
  - trade, development, co-operation policies;
  - exchange programmes for certain target groups from countries of origin, and especially from neighbouring countries,
  - specified, where necessary, for individual countries or regions of origin.

#### CONTROLLING MIGRATION FLOWS

##### General admission policies

4. Completion of the 1991 work programme, with particular emphasis on:
  - the elaboration of a Convention on family reunification.
  - the completion of work in the area of admission of workers, self-employed, students and third country nationals legally resident in the Community.

5. Approximation and where possible harmonisation of admission policies for humanitarian reasons with special attention to the position of certain vulnerable groups, such as women who are the victims of trafficking.

#### Refugees and other persons in need of international protection

6. Implementation of the Plan of Action approved by the European Council in December 1993 in regard to:
  - harmonised application of the definition of refugees in accordance with Article 1A of the Geneva Convention;
  - development of minimum standards for fair and efficient asylum procedures.
7. The elaboration of a Convention on manifestly unfounded asylum applications and the implementation of the third host country principle.
8. Harmonisation of policies concerning those who cannot be admitted as refugees, but whom Member States would nevertheless not require to return to their country of origin in view of the general prevailing situation in that country.
9. Harmonisation of the schemes for temporary protection.
10. Development of a monitoring system for absorption capacities and creation of a mechanism which would make it possible to support Member States who are willing to assist other Member States faced with mass influx situations; similarly to support projects of Member States or third transit countries faced suddenly with new pressures.

#### Illegal immigration

11. Improving procedures for the exchange of information on routes and carriers and the taking of appropriate follow-up measures of a preventive nature.
12. Adoption and implementation of the revised draft Convention on the Crossing of External Borders.
13. Development of measures designed to identify persons illegally resident in the Community focussing in particular on combating illegal employment.
14. Definition of minimum standards for the treatment of those who have been found to be in an irregular situation. (See also point 22)
15. Development of guidelines on repatriation policies concerning particularly vulnerable groups, such as unaccompanied minors.
16. Approximation of schemes for the voluntary repatriation of illegal immigrants and intensification of cooperation between Member States in order to facilitate repatriation in appropriate cases and extension of this cooperation to relevant third countries.

17. Conclusion of readmission agreements with relevant third countries and making the necessary linkage between these agreements and corresponding external agreements of the Community and examination of the consequences of such readmission agreements for certain relevant countries of origin or transit.

#### STRENGTHENING INTEGRATION POLICIES FOR THE BENEFIT OF LEGAL MI-GRANTS

##### Improving the situation of third country nationals within the Community

18. Harmonisation of legal status of third country nationals legally resident in the Community with a view to ensuring a permanent residence entitlement for immigrants and members of their families who satisfy stability criteria.
19. Steps to realize the objective of free movement for legally resident third-country nationals.
20. Review of Member States' legislation in order to remove conditions of nationality for the exercise of rights or granting of benefits which are not justified for objective reasons.
21. Monitoring of implementation by the Member States of the agreements with third countries as regards equal treatment of workers of these countries.
22. Ratification by the Member States of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the U.N. on 18 December 1990.

##### Creating the right economic and socio-cultural conditions for successful integration

23. Actions to combat unemployment of third country nationals.
24. Actions in relation to employment conditions of third country nationals who are legally resident in the territory of the Community.
25. Further development of special programmes for immigrants in the context of the new education action programme (SOCRATES) and the vocational training programme (LEONARDO).

##### Information and Dialogue

26. Expansion of the RIMET and ELAINE networks.
27. Extension of the concertation procedure provided for in Commission Decision 88/384 to ensure involvement of all bodies responsible for integration policy within national administrations.
28. Continuing support for the Migrants Forum.



Combating racial discrimination and tackling the problem of racism and xenophobia

- 29) Revision and updating of the Report "Legal Instruments to combat Racism and Xenophobia".
- 30) Establishment of systems for monitoring incidents of racial harassment.
- 31) A Community Code of Practice prohibiting racial discrimination in employment.
- 32) Development of proposals in the field of education, information and legislation to promote improved cooperation between Member States to prevent racism and xenophobia.

## ANNEX I. DESCRIPTION OF MAIN MIGRATORY FLOWS

### 1. General immigration and emigration figures

1. The following tables describe general immigration and emigration patterns for the Member States from 1989 until 1992. Although the Communication does not deal with migration of EC citizens, the tables are illustrative as they show that these movements are more important in quantitative terms than migratory movements of third country nationals. Unfortunately, the statistics are not available for all Member States throughout the relevant period. This affects especially the numbers mentioned as "total", as these represent merely aggregate figures for a number of Member States and do not represent the aggregate number for immigration or emigration to or from the Union as a whole. The total immigration figure for 1992, for example, is estimated by EUROSTAT at about 2 mln. persons, whereas the table indicates a much lower figure due to lack of full data from all Member States. In addition, the following should be taken into account when reading these tables:

- The 1992 figures for Germany relate only to the first half of that year;
- Immigration data for France do not include French nationals returning to France;
- Emigration data for Spain refer only to nationals;
- Figures for Ireland, Portugal and the UK are of a provisional nature only and are rounded. Immigration data for Portugal do not include Portuguese nationals returning to Portugal.

Table 1A: Total immigration in the Member States

Member State	1989	1990	1991	1992
Belgium	54,149	62,682	67,460	66,763
Denmark	38,391	40,715	43,567	43,337
Germany	1522,190	1256,250	1182,027	666,585
Greece	38,644	42,021	24,346	32,132
Spain	33,910	33,988	24,320	38,882
France		94,855	102,108	110,867
Ireland		33,300	40,800	
Italy	81,201	168,754	128,935	
Luxembourg	9,143	10,281	10,913	10,698
Netherlands	98,916	117,350	120,237	116,928
Portugal				13,700
United Kingdom	249,752	288,787	288,522	215,900
"total"	2,128,285	2,150,973	2,035,226	1,317,784

Source: EUROSTAT

Table 1B: Immigration of non-EC nationals in the Member States

Member State	1989	1990	1991	1992
Belgium	21,071	25,837	29,294	27,971
Denmark	15,977	16,283	18,457	17,708
Germany	649,213	328,800	792,737	
Greece	22,081	19,760	10,374	11,235
Spain	7,880	8,381	7,273	12,735
France		85,339	92,789	88,470
Ireland			3,200	4,600
Italy	20,571	89,020	83,977	
Luxembourg	1,585	1,938	2,321	2,887
Netherlands	50,318	83,301	84,285	
Portugal				12,200
United Kingdom	115,917	128,404	116,938	95,000
"total"	906,602	789,053	1,243,636	274,798

Source: EUROSTAT

**Table 1C: Total emigration from the Member States**

Member State	1989	1990	1991	1992
Belgium	33,458	32,502	33,752	33,707
Denmark	34,949	32,383	32,629	31,915
Germany	544,987	610,595	582,240	321,472
Greece				
Spain		12,044	9,149	
France				
Ireland				
Italy				
Luxembourg	6,288	6,339	6,740	6,441
Netherlands	47,485	45,321	45,297	
Portugal				25,700
United Kingdom	142,081	163,884	168,515	149,700
"total"	811,237	905,058	880,313	570,927

Source: EUROSTAT

**Table 1D: Emigration of non-EC nationals from EC Member States**

Member State	1989	1990	1991	1992
Belgium	7,342	8,949	8,014	8,328
Denmark	6,773	6,369	7,639	8,330
Germany	348,371	380,930	400,897	
Greece				
Spain				
France				
Ireland				
Italy	3,340	4,172	3,913	
Luxembourg	1,172	1,215	1,221	1,195
Netherlands	12,242	12,023	12,150	
Portugal				900
United Kingdom	62,447	67,131	70,425	77,300
"total"	443,676	482,779	506,250	98,045

Source: EUROSTAT

## 2. Intra-European migration

2. In the case of intra-European migratory movements of non-EC citizens, two major developments can be noted. First, the States of Central Europe have become important transit countries. Second, ethnic conflicts and the vulnerable position of minority groups have produced large-scale migratory movements from certain Eastern European countries. While the civil war in former Yugoslavia produced millions of displaced persons, minority groups, such as the gypsies in Romania, have also migrated in large numbers.
3. The expected large scale movements of citizens from the former Soviet Union to Western Europe has not happened. There has been migration by ethnic minorities (ethnic Germans, ethnic Greeks, ethnic Jews, Armenians, Poles, Bulgarians, Hungarians) who were the first to make use of the new emigration opportunities provided by the political changes of 1989 and 1990. They migrated to the USA, Canada and Israel as well as to Member States. There were, however, only 12,000 asylum requests lodged in Member States in 1992 by citizens of the former Soviet Union, of which Germany bore the brunt, receiving 84% of them.
4. There has been a marked increase in short-term movements from the former Soviet Union ostensibly for tourist purposes. These visits, for example to Poland (which received 7 million tourists from the former Soviet Union in 1991) are, in fact, mainly commercial, involving trade in commodities like vodka. They pose problems when the "tourists" overstay, in the hope of finding work.
5. However, the main migratory movements with respect to the former Soviet Union will be internal. Statistics from the Rand Corporation indicate that there will be a great number of Russians returning from other republics of the former Soviet Union. For example, 81% of Russians living in Tadjikistan intend to return. The desire to move may stem from ethnic tensions (discrimination against Russians) or economic factors (severe agrarian overpopulation in e.g. Central Asia, Caucasus, Moldova). Since over 27 million Russians live outside Russia, this is an enormous potential migration factor. Russia has also had to cope with the return of its servicemen stationed in Eastern Europe.
6. With regard to Central and Eastern Europe, excluding former Yugoslavia, table 2 provides the figures for the number of asylum seekers in Member States originating from these countries. With the exception of Polish citizens, the number of citizens of each of these countries who applied for asylum in the Member States has practically doubled. About 60-80% of these asylum requests have been lodged in Germany, but the number of applications there has dropped considerably after the recent changes of the German asylum laws. It is still too soon to predict whether this will be a long-term development or whether there will be a redirection of these asylum requests to other Member States. For the time being, however, it seems risky to extrapolate the figures of 1991 and 1992 to 1994 and beyond.

**Table 2: number of asylum-seekers from Central and Eastern Europe (excluding former Yugoslavia) in the Member States**

Country of origin	1991	1992
Bulgaria	15,094	33,203
Czechoslovakia	1,873	3,109
Hungary	646	1,163
Poland	5,899	5,979
Romania	50,872	111,346
Total	76,375	156,792

Source: Member States

7. The states of Central and Eastern Europe have also recently become important transit countries. Reliable figures are hard to obtain, but it is estimated that important migratory flows are involved. It is clear, for example, that Somalians and Chinese use these countries for transit. Poland has faced important migratory movements from Romania, Czechoslovakia, Bulgaria and Vietnam. In 1992 Hungary and Poland faced a sharply increased number of attempted illegal border crossings.
8. The situation in former Yugoslavia has produced the most dramatic intra-European migratory movement. According to UNHCR, by March 1993 the number of displaced persons and other victims in need of protection had increased to 3.8 million. It clearly shows that within Europe, violent ethnic conflicts can quickly generate massive migratory movements. Figures provided by UNHCR show that a relatively small number of countries have received the largest share of displaced persons from the former Yugoslavia<sup>1</sup>. The following table shows the figures relating to the number of persons offered special protection as they are considered to belong to vulnerable groups. These figures only represent a small proportion of the total number of former Yugoslavs legally residing in the Community, as the number of asylum seekers and of persons who have been granted temporary protection (over 400.000 in the Union alone) should be added.

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<sup>1</sup> "Survey of Implementation of Temporary Protection", issued as a working document during the session of the Humanitarian Issues Working Group of the International Conference on the Former Yugoslavia, Geneva, July 1993.

**Tables 3A and 3B: Number of places offered to vulnerable groups from former Yugoslavs by the end of April 1993/EU and other receiving countries (figures marked with + do not include family members)**

COUNTRY	NUMBER OF PERSONS
Belgium	200
Denmark	200
France	1,320
Germany	17,000
Greece	150
Ireland	340
Italy	400
Luxembourg	10
Netherlands	200+
Spain	1,000
United Kingdom	1,000+

  

COUNTRY	NUMBER OF PERSONS
Australia	250
Austria	200+
Canada	500
Czech Republic	500
Finland	72+
Malaysia	100
New Zealand	50+
Sweden	150+
Switzerland (incl. refugees and temporary protected status)	5,635
Turkey	270
USA	1,000

9. At present, displaced persons from former Yugoslavia have found refuge in a large number of countries. Although most of them stay in a European country, countries like the USA, Australia, Canada, Pakistan and Malaysia have also offered hospitality to differing numbers of them. Although sometimes, as in the case of Pakistan, the government concerned has indicated that it reckons with an eventual return of the former Yugoslavs to their region of origin, there seems to be no risk of these people having to return before the situation in former Yugoslavia has improved. In some of the neighbouring countries the outlook may be different. It is not clear, for instance, what the position will be for the almost 300 000 Muslims from Bosnia-Herzegovina, at present sheltering in Croatia, given that Croats and Muslims have engaged in direct fighting against each other in Bosnia-Herzegovina. It cannot be assumed that even in the event of a breakthrough in the peace process there will be an immediate, dignified and orderly return of the displaced former Yugoslavs: first of all, the necessary facilities will not be available in those areas that were directly affected by the conflict. Secondly, some of the former Yugoslavs may already have stayed for such a long time in the host country that they have become integrated and would not wish to return to their country of origin. It will depend on the policies of the host countries whether such a continued stay will be permitted. It may therefore be concluded that with the Yugoslav crisis, Europe has experienced massive migratory movements, eventually leading to a diaspora of a large part of the population of former Yugoslavia.

### 3. Migratory flows from Northern Africa and Turkey

10. Migratory movements from Northern Africa into the Community are of a quite different character from the intra-European movements. Whereas the migratory movements from Central and Eastern Europe are, with a few exceptions, a relatively recent phenomenon, immigration from Northern Africa has long-established roots. Some of these relate to the colonial past of Member States. Reference can be made to the immigration into France from, for example, Algeria. But most of the regular migratory movements go back to the recruitment programmes a number of European Member States adopted between 1960 and 1973. As a consequence of the realization that the "guest workers" would actually become real immigrants and were not just temporary visitors, they came to benefit from the right of family reunification which resulted in continuing follow-up migratory effects.
11. The number of persons legally resident in the Member States in 1992 are included in table 8. These figures have to be interpreted with some caution. In particular, due regard should be given to the effect of nationality laws: if the jus soli applies, as is, for example, the case in France, children of first-generation migrants automatically obtain the nationality of the host country and are no longer counted as third country national. The figures in table 8 cannot therefore be used as indicators for the actual population originating from the countries concerned. Nevertheless, compared to 1980 most Member States have shown an increase of the resident population from the MAGHREB countries and Turkey. This increase can almost entirely be attributed to admission for family reunion. This form of migration would normally be expected to



diminish in the future, since family reunion for the first generation has already been completed. The decrease to be expected could be smaller, however, if second and third generations also marry people from their country of origin.

12. Although regular migration from Northern Africa and Turkey may be expected to decline in the years to come, there is reason to believe that irregular migration from these countries may still increase. The push and pull factor involved are too significant to assume that migration pressures will not increase considerably in the future. In order to give a follow-up on the 1991 Communication on Immigration in this respect, the Commission had two local institutes investigate the nature of existing migratory movements from Algeria, Morocco, Tunisia and Turkey, as well as their causes and effects upon the respective national economies. On the basis of these studies a stocktaking seminar was organised on 2 April 1993, which also provided the basis for further possible studies on the subject. In addition, mention should be made of the seminar organised by IOM on the same subject, on 19-22 April 1993 which provided important additional information.
13. The studies mentioned in the preceding paragraph confirmed that since the mid-1970's family reunion has been the main source of regular migration from the countries under examination. Since the mid-1980's irregular migration has been quantitatively more important than regular migration and has affected southern European countries like Spain and Italy in particular. Another important finding was that the majority of those emigrating were relatively highly qualified people leaving their jobs behind; the number of unemployed emigrating was much smaller. As for the push and pull factors involved, it was concluded that the availability of (clandestine) jobs in the Community was the more important pull factor, whereas the demographic situation in the countries of origin and its economic effects was considered to be the important push factor.
14. According to estimations from ILO and UNFPA, the population in the MAGHREB-countries would almost double between 1990 and 2025. In Turkey population would increase over the same period by about 70%. Demographic developments would also have a severe affect on the age structure of the population. These countries share the following features: a young population, large labour forces and high unemployment. However, they each have different push factors: Morocco's include a rural exodus and strong disparities between the regions; while in Turkey, ethnic tensions play an important part. Moreover, the migratory movements which result from these factors are not all directed at the same countries. For example, 97% of Algerians who emigrate go to France, while 59% of Tunisian migratory movements are directed towards Libya.
15. The fact that the previous paragraphs concentrated on four countries in particular, should not be seen as implying that the situation in other North African countries would be any better. Egypt, for example, has to cope with similar demographic imbalances to Turkey, and had an unemployment rate in 1991 of 14% or 2 million. On top of that, Egypt has had to absorb the return of half a million Egyptians who had been working in Iraq and Kuwait, but had to give up their jobs during the Gulf War.

16. Summarizing these findings, it can be concluded that demographic imbalances exist in all countries mentioned above. So far, these imbalances have led to regular and clandestine migration on the basis of economic push and pull factors. It is to be expected, however, that if these demographic imbalances persist - and it should be noted that demographic developments can only be influenced in the longer term. Push factors are likely to increase. They can equally lead to social and economic unrest with political consequences for the countries concerned. That can, in turn, have implications for migration pressures by way of asylum applications, etc. To some extent, this development has already started: the number of asylum applications by Algerian nationals arriving into the Member States has risen from 1,730 in 1991 to 8,158 in 1992.

#### 4. Migratory flows from other parts of the world

17. Migratory flows from other countries can be divided into two categories: firstly, flows related to traditional, colonial ties with certain parts of the world and secondly, asylum-related flows. Only recently has clandestine migration from non-neighbouring countries gained any significance, but so far it is still of an incidental character, since generally the long distances involved make it difficult to succeed in reaching Member States in an irregular way.
18. Member States have traditionally experienced migration from a wide range of countries as an almost logical consequence of past colonial ties. In almost all of these cases, the admission policies applicable to citizens of the former colonies have become more restrictive, so that regular migration patterns have gradually become less important. On the other hand, there may still be certain provisions in aliens or nationality laws that grant preferential treatment to these citizens. Furthermore, there are continued possibilities for temporary stay, for example, for students, where these categories may be major beneficiaries, just because tradition would make these Member States the more logical country to stay.
19. For the UK, the major groups of immigrants that would come under this category originate from India, Pakistan, the West Indies and certain African countries. For the Netherlands, they would originate from Indonesia and Surinam. Belgium and France have seen migration from their former colonies in West and Central Africa. For Spain, these groups stem mainly from Latin America and sometimes from the Philippines, and for Portugal, the main groups come from Brasil, Angola, Cape Verde and Mozambique.
20. It is hard to predict how migratory pressures from these countries will develop in future. First of all, some Member States have only recently restricted their admission policies, either because their former colonies have become independent only recently, or because for political reasons Governments did not wish to curtail immigration from these countries. Secondly, in some instances, overseas territories still formally belong to a Member State, such as the French departments d'outre mer and the Dutch Antilles; often the introduction of restrictive admission policies to those born or living in these territories, as long as they are nationals of the Member State, is inconceivable.

21. For the rest, it will depend on the actual push and pull factors involved whether irregular migration from former colonies will become a significant factor in future. The colonial heritage may already provide a number of elements which facilitate migratory movements or act as pull factors: familiarity with the language, direct transport links and the presence of fellow nationals in the Member State concerned, who can provide a continuous flow of information about immigration and employment opportunities and who can provide practical assistance on arrival. As for the push factors, demographic and socio-economic factors are of great importance, together with the general political climate. A striking example in this respect is India, where, according to UNFPA, demographic developments are disquieting; in addition, economic development seems to be stagnating and ethnic/religious tensions are building up. All of this may create a climate, in which migration seems to be a way of escaping the domestic situation. But even if push and pull factors are such that migration pressures are expected to increase, large-scale migratory movements will not develop until there are practical ways of bridging the great distance between the country of origin and Member States. So it is relevant whether intermediaries offer the necessary arrangements. This can be illustrated by recent movements of Chinese citizens: at large cost for the migrants involved, intermediaries have taken care of the necessary transportation as well as documentation, and irregular migration from China into the Union as well as into the USA has followed these planned for patterns.
22. The other phenomenon which brings about long-distance migratory movements is the flow of asylum-seekers and refugees. Table 3 gives an idea about the nationalities involved in the recent past. It is extremely difficult to make any reliable predictions on the basis of these figures. First, the figures themselves are difficult to compare, as Member States have not yet harmonised their statistical methods in this respect and therefore the underlying assumptions differ. Second, no migratory flows are as unpredictable as those relating to asylum applications. In 1992 compared to 1991, there has generally been a certain decrease in the number of asylum requests from the countries listed; if general asylum figures have risen in a number of Member States, this can normally be attributed to the number of asylum requests put forward by former Yugoslavs (see para 9), but not to a sudden rise of other categories. What caused such a slowing down of the number of asylum requests lodged by citizens of non-neighbouring countries, has not been examined on any systematic basis. In some cases, the human rights situation in the country of origin may have improved; but this could hardly explain why there would be an almost general trend downward. According to major migration theories, employment prospects in the host countries constitute the dominant pull factor, so the recession Europe has been experiencing since the second half of 1992 may offer some explanation. But, then again, 1993 shows both the continuation and intensification of recessionist tendencies and yet at the same time, a number of Member States faced sudden and substantial increases in the number of asylum requests.

**Table 4:** Number of asylum-seekers arriving in Member States from non-neighbouring countries

COUNTRY OF ORIGIN	1991	1992
Afghanistan	9,740	7,362
Angola	10,322	2,056
Ethiopia	6,626	3,194
Ghana	9,739	9,989
India	10,380	8,725
Iran	12,031	6,036
Iraq	6,816	6,032
Nigeria	10,284	11,426
Pakistan	10,919	8,330
Somalia	7,896	10,449
Sri Lanka	15,205	10,957
Zaire	16,123	15,431

Source: Member States

23. The 1993 figures concerning the number of asylum requests put forward in the Member States actually show a rich variety of tendencies. In some Member States, the number has further decreased, but in other Member States the number is more than three times the comparable number in 1992. Table 5 lists the number of asylum applications in each Member State in 1991, 1992 and 1993 respectively. Lower figures in one Member State as against higher figures in another indicate that there is not a universal pattern. The significant drop in Germany, however, affects the overall picture and provides for a certain downward trend after 1992 for the Union as a whole.

Table 5: Number of asylum-seekers in each Member State

MEMBER STATE	1991	1992	1993
BELGIUM	15,354	17,647	22,039
GERMANY	256,112	438,191	322,599
DENMARK	4,609	13,884	6,121
SPAIN	8,138	11,708	5,778
FRANCE	47,380	27,000	
GREECE	5,944	4,000	827
IRELAND	31	250	65
ITALY	28,000	2,500	1,075
LUXEMBOURG	238	2,000	381
NETHERLANDS	21,615	20,346	35,399
PORTUGAL	163	200	2,091
UNITED KINGDOM	57,700	32,000	22,350
"TOTAL"	447,275	571,718	420,718

Source: 1991 and 1992 - NIDI-report "Asylum-seekers and Refugees - Statistics and Backgrounds in the Twelve EC-countries;  
1993 - Member States

Figures for 1991 and 1992 exclude dependent children in case of Belgium, France, Italy and Portugal. Similarly, figures for Denmark exclude applications outside Denmark and rejected applications at the border. Figures for Portugal exclude manifestly unfounded asylum applications.

24. Finally, tables 6A and 6B show the Member States' share in receiving asylum-seekers coming from the main non-neighbouring countries of origin. Tables 7A, 7B and 7C provide the absolute numbers concerning the major groups of asylum-seekers. These tables demonstrate that in absolute terms there is no equal distribution among Member States and that this distribution varies considerably with each nationality examined. Traditional relationships between a Member State and a country of origin seem to play a certain role in directing the flows, but their effect is not crucial: one can see, for example, a higher than average proportion of asylum-seekers in the UK coming from India and Pakistan, but Germany is still the more popular country with these asylum-seekers. In general, Germany is the most popular host country for two reasons: firstly its relatively liberal asylum policy (though the tightening of the national legislation has caused a drop in the number of asylum-seekers); and secondly its economic prosperity.

Tables 6A and 6B: Percentage of asylum-seekers from certain countries of origin in each Member State for 1992

Member State	Afghanistan	Angola	Ethiopia	Ghana	India	Iran
B	0.23	0.72	0.75	9.35	12.53	1.90
D	86.27	94.01	49.80	70.00	66.45	63.51
DK	8.41	0.07	6.47	0.22	0.45	4.46
ES	0.16		0.31	0.62		
F		3.35	0.50	2.21	2.73	1.42
GR			0.16		0.02	0.13
IRL						0.02
I	0.15	0.02	11.26	0.03	0.06	0.27
LUX		0.02				0.05
NL	4.78	1.80	9.32	1.40	1.08	21.50
P				0.10	0.07	0.03
UK			21.43	16.06	16.62	6.71
total	100.00	99.99	100.00	99.99	100.01	100.00

Member State	Iraq	Nigeria	Pakistan	Somalia	Sri Lanka	Zaire
B	1.66	4.99	8.58	1.02	1.31	24.21
D	22.81	91.77	62.61	26.33	48.40	53.63
DK	23.67	0.46	0.55	13.00	4.14	0.32
ES	6.29	0.25	0.90			1.70
F	1.44	0.39	5.29	0.38	17.37	9.32
GR	21.10		0.06	0.01	0.02	
IRL	0.02			0.01		
I	0.46		0.20	3.56	0.27	0.15
LUX	0.09	0.07	0.02	0.03		0.12
NL	11.83	2.04	1.30	40.64	9.44	3.08
P		0.04	0.07		0.02	1.78
UK	10.68		20.41	15.03	19.03	5.68
total	100.05	100.01	99.99	100.01	100.00	99.99

Source: Member States

Tables 7A, 7B and 7C: Asylum applications from major countries of origin

	ALBANIA		BULGARIA		INDIA	
	1991	1992	1991	1992	1991	1992
BELGIUM	203	93	407	503	1,291	1,093
GERMANY	4,227	5,957	12,056	31,540	5,523	5,798
DENMARK	26	10	41	19	36	39
SPAIN	27	-	522	426	1	-
FRANCE	247	37	569	41	1,128	238
GREECE	494	3	3	-	29	2
IRELAND				1		
ITALY	18,723	161	629	297	2	5
LUXEM- BOURG	5	3	1	-	-	-
NETHER- LANDS	215	138	440	197	318	94
PORTUGAL			1		7	6
UNITED KINGDOM			370	180	2,045	1,450
EU	26,158	8,394	17,030	35,196	12,371	10,717

Source: Member States



	IRAN		NIGERIA		PAKISTAN	
	1991	1992	1991	1992	1991	1992
BELGIUM	165	115	743	570	913	715
GERMANY	8,643	3,834	8,355	10,486	4,364	5,215
DENMARK	463	269	35	52	68	46
SPAIN	47	-	287	28	55	75
FRANCE	305	86	211	44	1 892	441
GREECE	115	8	3	0	185	5
IRELAND	-	1	-	-	-	
ITALY	26	16	2	-	23	17
LUXEM- BOURG	6	3	1	8	2	2
NETHER- LANDS	1,726	1,298	640	233	218	108
PORTUGAL	-	1	4	5	4	6
UNITED KINGDOM	535	405			3,195	1,700
EU	14,022	8,028	12,272	13,418	12,910	10,322

Source: Member States

	Romania		Sri Lanka		Zaire	
	1991	1992	1991	1992	1991	1992
BELGIUM	2,418	3,463	29	144	1,960	3,749
GERMANY	40,504	103,787	5,628	5,303	2,134	8,305
DENMARK	135	98	340	454	18	50
SPAIN	718	868	24		164	264
FRANCE	2,486	710	3,400	1,903	4,402	1,443
GREECE	35	0	78	2	1	
IRELAND		12				
ITALY	2,164	942	138	30	36	23
LUXEM- BOURG	45	15			16	19
NETHER- LANDS	1,662	960	1,821	1,034	297	477
PORTUGAL	53	160	3	2	85	221
UNITED KINGDOM	552	305	3,750	2,085	7,010	880
EU	52,763	113,312	17,202	12,949	18,114	17,423

Source: Member States

25. To sum up, apart from traditional colonial ties, other factors affecting migratory flows are: the presence of compatriots in a Member State, the general reputation of a country as being prosperous or as having a relatively liberal asylum and/or immigration policy, the availability of intermediaries to take care of transport and documents. The latter factor might explain certain flows that may seem arbitrary at first sight: intermediaries generally offer their services for a particular route that may involve only one or very few Member States.

#### 4. Third country nationals legally residing in the Member States

26. Apart from the figures on migratory movements, as discussed in the previous paragraphs, figures on the number of third country nationals resident in the Member States deserve separate attention. The number of third country nationals legally residing in a Member State may also tell something about the capacity of that country for further immigration. These figures are also highly important for a proper definition of integration policies.
27. Tables 8 and 9 provide the necessary figures. Tables 8A, 8B and 8C list absolute numbers of the major third country populations. It shows those nationalities representing a total population within the Community of more than 100.000 persons on 1 January 1992. Table 8D contains total figures relating to third country nationals legally resident in the Community on 1 January 1991 divided up by continent. It should be noted that the figures for France in these tables refer to the 1990 census data.

**Table 8A: Population by citizenship on 1 January 1992/Citizens of European Countries**

	AUSTRIA	POLAND	ROMANIA	TURKEY	"YUGO-SLAVIA"
BELGIUM	1,073	4,821		88,365	6,459
DENMARK	588	4,868	920	32,018	10,719
GERMANY	188,885	271,198	92,135	1,779,586	775,082
GREECE	2,149	11,393	4,620	2,303	3,052
SPAIN	1,458	3,122	179*		584*
FRANCE	3,280	47,127	5,114	197,712	52,453
IRELAND	300*	100*			
ITALY	4,878	9,073	5,155	2,767	20,735
LUXEMBOURG	420			218	3,110
NETHERLANDS	2,896	4,636	1,954	214,830	15,148
PORTUGAL	274*	107*	28	35*	80*
UNITED KINGDOM	4,800	29,400		29,400	9,000
EU	211,001	385,845	110,105	2,347,234	896,422

Source: EUROSTAT (Figures marked with an asterisk relate to 1 January 1991)

Table 8B: Population by citizenship on 1 January 1992/Citizens of African countries

	ALGERIA	MOROCCO	TUNISIA
BELGIUM	10,971	145,800	6,385
DENMARK	347	3,170	342
GERMANY	9,073	75,145	27,205
GREECE	269	387	408
SPAIN	2,263	49,513	355*
FRANCE	614,207	572,652	206,336
IRELAND			
ITALY	2,592	81,695	30,374
LUXEMBOURG			
NETHERLANDS	809	163,697	2,576
PORTUGAL	33*	71*	17*
UNITED KINGDOM	2,000*	9,500	1,600
EU	642,564.00	1,101,630.00	275,598.00

Source: EUROSTAT (Figures marked with an asterisk relate to 1 January 1991)

**Table 8C: Population by citizenship on 1 January 1992/Citizens of America and Asia**

	USA		INDIA
BELGIUM	11,697		3,024
DENMARK	4,358		932
GERMANY	99,712		32,769
GREECE	19,699		2,121
SPAIN	13,184		5,352
FRANCE	24,236		4,579
IRELAND	9,274		
ITALY	19,610		6,625
LUXEMBOURG	1,385		
NETHERLANDS	12,093		3,293
PORTUGAL	7,210		600*
UNITED KINGDOM	117,300		151,500
EU	339,758		210,795

Source: EUROSTAT (Figures marked with an asterisk relate to 1 January 1991)

Table 8D: Population by citizenship on 1 January 1991/total figures for Europe/Africa/America/Asia

	EUROPE (non-EU)	AFRICA	AMERICA	ASIA
BELGIUM	107,227	181,284	19,348	22,205
DENMARK	71,271	7,063	7,920	38,247
GERMANY	3,016,091	197,974	144,633	513,420
GREECE	40,213	19,117	28,647	36,130
SPAIN	33,336	39,875	98,438	36,130
FRANCE	349,594	1,633,142	72,758	226,956
IRELAND	1,800		7,600	
ITALY	118,024	238,565	128,362	140,279
LUXEMBOURG	5,132	1,724	1,836	1,612
NETHERLANDS	234,210	186,225	42,153	52,956
PORTUGAL	2,646	45,255	26,369	4,154
UNITED KINGDOM	149,000	148,000	221,000	453,000
EU	4,128,544	2,698,224	799,064	1,525,089

Source: EUROSTAT

28. Table 9 shows the percentage of third country nationals legally resident in the Member States. It reflects an increase in certain countries (especially Germany), but also shows a drop in others (France, Greece) between 1986 and 1992. This is not to say there has been a net emigration from France and Greece: part of the decrease should also be attributed to the fact that third country nationals have obtained French or Greek nationality. Furthermore, the figures do not include any numbers for third country nationals residing illegally in the Member States. Although such figures would also be of interest to the development of integration policies - especially since the presence of illegal migrants may affect negatively the position of legally resident third country nationals - there are hardly any reliable figures available.

**Table 9: Total population and third country nationals legally resident in Member States (\*1.000)**

MEMBER STATE	1986			1992		
	TOTAL POP.	NON-EU NAT.	%	TOTAL POP.	NON-EU NAT.	%
BELGIUM	9,858.9	308.4	3.13	10,022.0	367.9	3.67
DENMARK	5,116.3	91.1	1.78	5,162.1	141.1	2.73
FRANCE	53,173.9	2,285.7	4.30	56,163.2	2,357.7	4.14
GERMANY	61,020.5	3,022.3	4.95	64,484.8	4,395.0	6.82
GREECE	9,949.1	185.3	1.86	10,120.0	174.9	1.73
IRELAND	3,541.3	17.9	0.51	3,524.0	-	-
ITALY	57,202.4	-	-	56,757.0	425.9	0.75
LUXEM-BOURG	367.2	-	-	389.8	13.9	3.56
NETHER-LANDS	14,529.4	391.0	2.69	15,129.2	557.4	3.68
PORTUGAL	10,185.0	59.0	0.58	9,846.0	83.9	0.85
SPAIN	38,542.1	121.9	0.32	39,055.9	202.4	0.52
UNITED KINGDOM	55,913.6	1,052.1	1.88	56,960.3	1 207.2	2.12

Source: EUROSTAT

29. Despite these deficiencies, table 9 indicates that there are wide discrepancies between Member States as for the percentage of third country nationals who are legally resident. Whereas Germany has a percentage of 6.82, third country nationals in Italy account for 0.75% of its total population. In order to develop to develop efficient integration policies, other data would have to be added. It is, for example, highly important whether third country nationals are evenly spread throughout the country or tend to concentrate in certain cities or regions. Integration policies will also have to take into account social data, such as the level of unemployment and the level of educational development. In fact, immigrant populations often group together in big cities, so that for example ethnic minorities form 25.7% of the population of Inner London, although according to table 8, third country nationals make up only 2.12% of the UK population. On these more specific data, the 1992 RIMET-report contains useful information<sup>2</sup>.

<sup>2</sup> Commission of the European Communities - DG Employment, Industrial Relations and Social Affairs. General Report by the Information Network from Non-Member States: Immigration - the situation in the EC Member States in 1992.

## ANNEX II: IMPLEMENTATION OF THE 1991 WORK PROGRAMME ON ASYLUM AND IMMIGRATION POLICIES

1. Since the submission of the 1991 Communications, Ministers responsible for immigration intensified their work on the harmonisation of immigration and asylum policies. One of their first achievements on this was the submission to and subsequent adoption by the European Council in Maastricht, in 1991, of a work programme for the harmonisation of immigration and asylum policies to be carried out before the end of 1993. Immigration Ministers also agreed in 1991 on an even more detailed work programme for the harmonisation of asylum policies. This work programme laid down in great detail the questions to be tackled.
2. The following paragraphs provide a survey of what has been accomplished since the adoption of the work programme.

### 1. Asylum policies

3. The state of play on the various elements of the 1991 work programme on asylum policy is as follows:

#### a. Dublin Convention

- preparatory measures relating to the application and implementation of the Dublin Convention. Agreement has been reached on most of these measures concerning, inter alia, means of proof, liaison officers and a graphical representation of the criteria of the Convention. A remaining point is the possible setting up of a system for the comparison of fingerprints to combat asylum applications under false or multiple identities (EURODAC). The feasibility study for such a system has yet to be undertaken.

#### b. harmonisation of substantive asylum law

- the formulation of unambiguous conditions for determining which applications for asylum are clearly unjustified. In November 1992 Immigration Ministers adopted a resolution on manifestly unfounded asylum applications. The resolution provides the conditions asked for by the work programme, but it does not require the introduction of specific accelerated procedures for this kind of application. However, the resolution does call for a speedy examination of manifestly unfounded asylum requests, i.e. the first decision to be taken within one month.
- the definition and harmonised application of the principle of first host country. To this end, at their meeting on 30 November 1992, Immigration Ministers adopted a resolution establishing the basic principles underlying the concept of first host countries. The resolution is actually broader in scope than the corresponding item in the work programme, as it also includes the principle of third host countries, i.e. countries which an asylum applicant has not necessarily passed through, but which were nevertheless the more logical countries to examine the asylum application, for example, if they issued a visa to the asylum seeker. On the other hand, the resolution does not provide for full harmonisation, as any Member State retains the right, for humanitarian reasons, not to remove the asylum applicant to a host third country. Finally, it should be noted that the resolution calls for a review of the operation of these



procedures, in co-operation with the Commission and in consultation with UNHCR, as well as for the consideration of any additional necessary measures.

- the question of countries where there is generally no risk of persecution. Although Immigration Ministers did not draw up a list of such countries, they did agree on a number of basic criteria. The conclusions were adopted at Immigration Ministers' meeting in November 1992. They also decided to exchange information on this subject on a regular basis.
- common assessment of the situation in countries of origin with a view to both admission and expulsion. This work is carried out by the Center for Information, Reflection and Exchange on Asylum set up by Immigration Ministers at their meeting in Lisbon in 1992<sup>1</sup>. Although CIREA is responsible for the examination of country reports, these are prepared within the framework of PESC. Although the number of country reports prepared this way is still limited, this procedure will probably be invoked on a more or less continuous basis.
- the harmonised application of the definition of a refugee as given in article 1A of the Geneva Convention. Immigration Ministers have since 1991 at their disposal a survey of the most striking similarities and differences in the substantive asylum law of the Member States. The first Council of Justice and Home Affairs has now identified it as a matter of priority.

c. harmonisation of expulsion policy

At their meeting in Copenhagen, in June 1993, Immigration Ministers adopted a Recommendation concerning checks on and expulsion of third-country nationals residing or working without authorization. The recommendation does provide at least in part for the determination of various aspects of an expulsion policy, as asked for by the work programme, although it goes beyond the cases of rejected asylum seekers. Moreover, at their meeting in London, Immigration Ministers also adopted a Recommendation on transit for the purposes of expulsion. This recommendation sees to it that the expulsion via the territory of another Member State can take place without excessive formalities. An addendum to this Recommendation further enhancing flexibility in this respect was adopted by Immigration Ministers at their meeting in Copenhagen, in June 1993. Here again, the recommendation addresses expulsion policies generally, i.e. irrespective of whether the authorities deal with rejected asylum-seekers or others.

d. the setting up of a clearing house

The establishment of CIREA should be seen as serving the implementation of this part of the work programme. CIREA has only been in operation since mid-1992, but the necessary exchange of information is gradually starting to take place. The co-operation between CIREA and CDR of UNHCR may soon lead to the computerized exchange of information on legislation as well as on country reports. Furthermore, the Council Secretariat has improved the systems governing the collection of statistical data, although definitional problems remain. The examination of case law has not yet started, but the mandate of CIREA would allow for such a process.

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<sup>1</sup> See below.

e. guaranteeing harmonised application of asylum policy

This was addressed more explicitly in the Commission's Communication on the right of asylum. In that Communication it was concluded that studies should begin on the role, structure and operation of possible common judicial machinery. This would aim to reduce disparities between Member States in the interpretation of the law on asylum and, at the same time, as an indirect effect, harmonize administrative practices. It should be noted that no such examination or studies have been started yet.

f. conditions for receiving applicants for asylum

In order to give effect to this part of the work programme, the Ad Hoc Group on Immigration approved a questionnaire, the answers to which are at present being analysed. No proposals have yet been put forward to approximate reception conditions.

4. The 1991 Communication of the Commission contains also a few other areas of suggested further co-operation. One of these areas concerns the harmonisation of rules and practices regarding de facto refugees. Immigration Ministers have not adopted specific proposals in this area. However, at their meeting in Copenhagen in June 1993, they did adopt a resolution on the protection to be offered to particularly vulnerable groups from the former Yugoslavia. As many of the people belonging to these groups would come under the above-mentioned definition of "de facto refugees", one might maintain that the temporary protection called for with respect to these groups of former Yugoslavs represents a particular example of dealing with a sudden mass influx situation of persons in need of international protection. The resolution does not attempt, however, to harmonize the kind of temporary protection which national laws and legislation provide.

2. admission policies

5. The 1991 work programme also contained a wide range of issues on the harmonisation of general admission policies. Much, however, remains to be done on this.

harmonisation of policies on admission for purposes such as family reunion and formation and admission of students. Immigration Ministers adopted a resolution on the admission for family reunion at their meeting in Copenhagen in June 1993. This resolution does not, however, provide for full harmonisation, however. Firstly, the resolution does not include any criteria for admission for family formation. Secondly, the it deals only with the admission of spouses and children and leaves it up to Member States to define policies on the admission of other family members. Thirdly, not all of the criteria concerning the admission for family reunion have been harmonized; sometimes the resolution contains only indications, as is, for example, the case for the maximum age limit for the admission of children. As for the admission of students, Immigration Ministers have approved a questionnaire on current national legislation. A compilation of the answers to this questionnaire has been made and may constitute the basis for harmonisation proposals.

harmonisation of policies on admission for other purposes such as humanitarian aims and work as an employed or self-employed person. The Belgian Presidency has been the first to attempt to tackle this subject by organizing a seminar on it. Work on the harmonisation of admission policies for employment started in 1992, when the UK Presidency submitted a first proposal for a resolution on this subject. However, no agreement could be reached on the text of this proposed resolution. Work on the harmonisation of admission policies for the self-employed has started on the basis of a proposal from the Belgian Presidency, but here too much remains to be done in order to agree on a text.

harmonisation of legal provisions governing persons authorized to reside. No progress has yet been made on this.

### 3. Illegal Immigration

6. Section B of the work programme on migration policy addresses a question that has also been dealt with extensively in the 1991 Communication on Immigration, i.e. the development of a common approach to the question of illegal immigration. Some progress has been made in this field, although there are still a number of aspects to be discussed.

co-operation on border controls within the framework of the Convention on the crossing of external frontiers. A revised draft Convention on the crossing of external frontiers was recently tabled by the Commission to take account of the coming into force of the TEU.

Informal exchanges of information also take place, however, within the framework of the Centre for Information, Reflection and Exchange on Immigration established by Immigration Ministers at their meeting in London, in November 1992. Its terms of reference are similar to those of CIREA, but CIREFI deals with non-asylum issues. Exchange of information takes place on traffickers, carriers and on travel routes used for irregular migration.

harmonisation of conditions for combating unlawful immigration and illegal employment and checks for that purpose both within the territory and at borders. As mentioned above, in June 1993 Immigration Ministers adopted a Recommendation concerning checks on and expulsion of third-country nationals residing or working without authorization. The recommendation can be seen as a first step towards the harmonisation as envisaged in the work programme. The area is extremely wide, however, and the recommendation provides only for the first indications in this respect. Reference should also be made to the previously mentioned Recommendation regarding transit for the purposes of expulsion.

harmonisation of principles on expulsion, including the rights to be guaranteed to expelled persons. Although some attempts were made under the Portuguese Presidency to define rights of people to be expelled, this appeared to be a difficult exercise, as it involves re-writing texts of international human rights instruments. This specific point of the work programme has not yet been completed.

definition of guiding principles on the question of policy regarding third-country nationals residing unlawfully in Member States. Although at first sight this item may seem to overlap with the previously mentioned items of this section, the introduction to the work programme makes clear that behind this phrase lies the desire to adopt a common position on regularisation policies. Although this aspect has not been dealt with in any explicit way, the Recommendation on expulsion departs from the general principle that unlawfully resident third-country nationals should be expelled. Only in individual cases could admission for humanitarian reasons be considered.

co-operation with countries of departure and transit in combating unlawful immigration, in particular as regards re-admission. The first Council of Justice and Home Affairs adopted a set of principles which would be used for possible re-admission agreements with third countries. The same Council also adopted a number of conclusions on the desirability of linking, whenever practical, external agreements of the Union with third countries to readmission agreements or practices.

#### 4. migration of labour

7. Another section of the 1991 work programme concerns the development of a policy on the migration of labour. This section partly involves Community law and Ministers of Labour also therefore take a natural interest in the matter.

harmonisation of national policies on admission to employment for third-country nationals taking account of possible labour requirements in Member States over the years to come. As referred to above, a resolution on this matter is being negotiated. This resolution would not, however, cover the entire field of admission for employment reasons. In particular, it would not include admission of temporary, seasonal and frontier workers.

increased mobility of Community nationals, in particular by improving the functioning of the SEDOC system. The Commission has set up a new, computerised system, EURES, which has already produced substantial results.

#### 5. situation of third country nationals

8. This section of the 1991 work programme contains one item only, i.e. the examination, within the appropriate fora, of the possibility of granting third-country nationals who are long-term residents in a Member State certain rights or possibilities held by Member State nationals, for example concerning access to the labour market, once nationals of the twelve Member States enjoy the same conditions of freedom of movement and access to the labour market. No study has yet been undertaken but the first Council of Justice and Home Affairs indicated that work in this field should be started in 1994.

9. Apart from the specific points relating to migration and asylum policies, the work programme also mentions a number of more general points of interest. The points mentioned are:

- analysis of the causes of immigration pressure;
- removal of the causes of migratory movements by an adjusted policy in the field of development aid, trade policy, human rights, food, environment and demographics;
- strengthening of support for accommodating refugees in their countries of origin;
- incorporation of the migration aspect into economic, financial and social co-operation.

These particular areas have been defined in more detail in the 1991 Communication on Immigration. In this Communication it was argued that such issues should be incorporated into the external relations of the Union. Within the framework of the intergovernmental co-operation no specific actions have taken place on the issues mentioned under this item of the work programme.

## ANNEX III: RECENT DEVELOPMENTS WITHIN THE UNION

1. Since 1991 the major developments concerning the harmonization of immigration and asylum policies have taken within the framework of intergovernmental cooperation by Immigration Ministers and subsequently within the framework of Title VI of the TEU. These developments were described in Annex II. The following paragraphs highlight other developments within the Union that are relevant to immigration and asylum policies in a broad sense.

### 1. Declaration on Principles governing External Aspects of Migration Policy: contents and follow-up

2. On December 12, 1992, the European Council meeting in Edinburgh adopted a number of conclusions, constituting the principles governing external aspects of migration policy. These principles largely set the framework for the broader migration policy called for in both the 1991 work programme on migration policies and the 1991 Communication on Immigration.
3. The Declaration mentions the following factors as being important for the reduction of migratory movements into the Member States:
  - 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;
  - co-ordination of action in the fields of foreign policy, economic co-operation and immigration and asylum policy by the Community and its Member States.
4. The Declaration is of major political importance as it constitutes the recognition at the highest level of the need to develop a comprehensive approach on immigration and asylum and to use the external relations of the Union to this effect.

### 2. Demographic policies

5. In November 1992 the Commission submitted to the Council and to the European Parliament a Communication on Demography, Family Planning and Co-operation with Developing Countries. On the basis of this Communication, the Development Council and Representatives of Governments of Member States adopted a Resolution on 18 November 1992. In this Resolution the Council recalled its previous Resolution of 11 November 1986 on Population and Development, in which the Community expressed its readiness to assist developing countries in this field. In its 1992 Resolution, the Council emphasized that rapid demographic changes affecting developing countries had profound implications for future progress towards the improvement of living standards across the developing world. The Council further noted that the relationships between demographic trends and factors and environmental change should be subject to continuous analysis.

6. The Resolution went on to indicate areas of assistance that may contribute towards more balanced demographic developments. It mentions in particular: policies which promote the health of women and children, which seek to improve the status of women in their societies, which promote literacy and which seek to improve the quality of the social services available to communities. In addition, the Resolution calls the provision of family planning services one indispensable way in which the range of social services available to people in developing countries can be enhanced. At the same time, the Council emphasizes that assistance should not be given to programmes which are in any way coercive, discriminatory or prejudicial to fundamental human rights.
  7. On family planning, the Council points to the continued and pressing need to respond to the large unmet demands for such services in developing countries. It is estimated that 300 million women and men worldwide would like, but do not have access to, the means freely to plan the number and spacing of their children. Programmes to improve family planning services should, however, whenever appropriate, be combined with other family health measures, offer women and men all suitable methods and means of contraception, inform them about their respective advantages and risks and include education on health and relationships. The Community and its Member States agreed to consider what further means they could make available, including reallocation of existing resources, in order to increase further their efforts to assist developing countries to strengthen family planning services.
  8. After the adoption of the Resolution, two expert meetings took place to consider operational follow-up. These experts defined a number of specific themes to consider and engaged in country-oriented studies. It is to be expected that on the basis of this additional information, the experts will eventually propose a more specific action programme.
  9. The demographic preoccupations have also been taken into account by the Community in its proposals concerning the mid-term Review of Lomé IV.
3. Furtherance of freedom of movement between the Union and other European States
10. Most of the measures mentioned in previous paragraphs were aimed at reducing migration pressures. The following paragraphs will highlight a different set of measures taken by the Community and its Member States, aimed at furthering free movement within Europe, hence looking upon migration as a positive rather than a negative phenomenon.
  11. In this respect, mention should be made first of all of the signing on 2 May 1992 of the EEA Agreement between the Community and its Member States on the one hand and the EFTA countries on the other hand. On the basis of article 28 of this Agreement and the jurisprudence of the Court of Justice relating to the corresponding article 48 of the EEC Treaty, citizens of the participating States acquire the right to move freely on the territories of these States in order to apply for work as well as the right to stay in order to do the work found. Equally, the EEA Treaty copied articles 59 and

60 of the EEC Treaty on the freedom of services. These freedoms will also create some freedom of movement, especially considering the interpretation given to these respective articles by the Court of Justice. These provisions will also affect border controls for citizens from the participating States: checks will have to be confined to verification of the identity of the person concerned and to the existence of possible risks for public order, public security or public health, as defined within the framework of directive 64/221.

12. Secondly, the Europe Agreements with a number of Central and Eastern European countries also provide the framework for granting free movement to certain categories of people. This is especially true for the establishment of freedom of movement of services.

#### 4. Activities of the European Parliament

13. Since 1991 the European Parliament has also undertaken a number of studies on migration and asylum policies and adopted several resolutions. In October 1992, MEP Mrs. van den Brink submitted to Parliament a report of the Committee on Civil Liberties and Internal Affairs on the European Immigration Policy. In November 1992, MEP Mr. Cooney submitted a report from the same Committee on the harmonization within the European Communities of Asylum Law and Policies. On the basis of these two reports, the Parliament adopted at its plenary session on 18 November 1992 two resolutions, A3-0280/92 and A3-0337/92.
14. These resolutions taken together present their own action programmes on migration and asylum policies. Their general thrust is to adopt as generous an approach as possible towards those in need of international protection and to strengthen the legal status of those who have been legally residing in the Community for some time. This implies, inter alia, the creation of generous opportunities for family reunification. On the other hand, the resolutions call for a stiff policy against irregular migration.
15. It would go beyond the scope of this Communication to quote all the various measures proposed in these resolutions; the following list therefore represents a selection of the more important proposals:
  - the setting up of a European monitoring centre to supervise migratory movements;
  - the conclusion of agreements between the Community Member States and the immigrants' countries of origin on estimated labour demand and supply;
  - the introduction of Community regulations to control illegal employment and severe penalties for employers employing illegal immigrants;
  - the setting up of campaigns to inform people in immigrants' countries of origin about the risks and problems associated with illegal immigration;
  - the conclusion of readmission agreements with the main countries of origin;
  - co-ordination between migration policy, policy on international development aid, trade policy and economic and social co-operation with third countries on the part of the Community and its Member States;



- the drawing up of proposals for extending the freedom of movement, freedom of establishment and access to the labour market enjoyed by EC citizens to all citizens of third countries legally resident in the EC;
  - the creation of a European Fund for Refugees;
  - the drawing up of a statute for those who flee from war or disasters on grounds of poverty or hunger, and are not covered by the Geneva Convention or the New York Protocol;
  - the adoption of a policy for the provision of protection to de facto refugees;
  - the establishment of arrangements for Member States to come to the assistance of one Member State which is receiving a large number of refugees;
  - the setting up on an ad hoc basis of a group of experts from each of the Member States together with a representative of the Commission and the UNHCR to advise on cases which are novel and the compilation of a Book of Precedents of such cases;
  - the establishment of a European Committee on Asylum and Refugees with the task of providing preliminary rulings on questions of country of origin;
  - the transfer of the ultimate power of decision on the interpretation of asylum law provisions in the Community Member States and the interpretation of the various conventions (the Convention on Human Rights and the Geneva Convention on Refugees) to an International Court.
16. The European Parliament has been extremely concerned with the intergovernmental character of the co-operation by Member States on migration and asylum policies in the past. It would have preferred that these policies be dealt with through communitarian procedures. This became evident not only from the resolutions mentioned above and the underlying reports, but also from the report by MEP Robles Piquer that was submitted to Parliament on 12 May 1993. In the resolution which Parliament adopted on the basis of this report, a strong plea is made in favour of the communitarian approach. Nevertheless, the debate on the report that took place on 13 July 1993 showed that a large number of MEPs do accept that under the Treaty on European Union, the co-operation within the Community on migration and asylum policies will take place on the basis of the special arrangements as laid down in Title VI of the Treaty. The views expressed by these MEPs show their desire to use these arrangements to the full, as they call for:
- full use of the Commission's newly acquired shared right of initiative;
  - introduction of the necessary provisions establishing the competence of the Court of Justice with respect to the Conventions to be adopted by Ministers of Justice and Internal Affairs;
  - use of the opportunity rendered by article K9 to transfer migration and asylum policies to the domain of article 100C of the Treaty.

In addition, the Parliament hopes for the introduction of new, communitarian procedures during the new Intergovernmental Conference that should take place in 1996.

## ANNEX IV: RECENT DEVELOPMENTS IN INTERNATIONAL FORA

### 1. Follow-up to the Conference in Vienna on East-West Migration

1. In 1991, Austria took the initiative to convene a Conference of Ministers on the Movement of Persons from Central and Eastern European Countries. Such a Conference was held in Vienna on 24 and 25 January 1991. Altogether, 32 European States as well as Australia, Canada and the United States participated in this Conference, which dealt with a large variety of subjects concerning East-West migration. The Conference was assisted from the very beginning by the Council of Europe and its follow-up has taken place under the auspices of this organization. The Conference had been initiated out of growing concerns about possible massive migratory movements from Central and Eastern Europe towards the other European countries.
2. The final communiqué adopted by the Conference reaffirms the importance of existing international human rights instruments and calls upon all participating States to become party to the Geneva Convention and the New York Protocol, if they have not already done so. As a general principle, the communiqué laid down the need to develop closer co-operation between participating States on the basis of solidarity.
3. Despite the fact that the feared massive migratory flows from Central and Eastern Europe did not take place, with the exception of displaced persons from former Yugoslavia, the Vienna Conference was followed-up by a number of meetings. This can be attributed to the fact that a number of Central and Eastern European countries themselves faced serious problems concerning transit migration towards Western Europe and that it was found to be of interest to all participating States, presently 37, to discuss these problems and to monitor the potential and actual East-West migration. To this purpose a Group of Senior Officials was held 5 meetings between January 1991 and December 1993. This Group of Senior Officials in its turn created a number of Working Parties in order to study the following themes:
  - Freedom of movement of persons;
  - International exchange on migration information;
  - the Profile of potential migrants;
  - the Right to asylum;
  - Visa practices;
  - Burden-Sharing.
4. At its meeting in July 1993, the Group of Senior Officials took stock of what had been achieved so far as a follow-up to the Vienna Conference. The Vienna Conference has provided a more balanced framework than the Berlin and Budapest Conferences in that the former identified more clearly the basic needs and problems of Central and Eastern European countries, whereas the latter was essentially concerned with combatting illegal migration and action against traffickers.

5. Senior Officials have agreed to set up an open-ended Consultative Group to further necessary follow-up activities. What is more, the report of Senior Officials has been submitted to the Conference of Heads of States and Governments of the Member States of the Council of Europe held in Vienna on 8 and 9 October 1993.
6. It is difficult to predict how intensive the remainder of the Vienna process will be. On the one hand, there has been a growing number of participating States, but on the other hand ever more delegations have pointed out that the co-ordination with international organizations, like the Council of Europe, CSCE, IOM and UNHCR deserved close attention. Some delegations, notably Sweden, Poland, the USA and Canada have made it clear that their preference would be to increase CSCE's role in this respect. Other delegations emphasized the importance of a better co-ordination with and possibly of a transfer to existing Council of Europe bodies. There is therefore a tendency to bring back the informal co-operation that has grown as a follow-up of the Vienna Conference into more traditional international frameworks.

## 2. Follow-up to the Conference in Berlin

7. On 30 and 31 October 1991 at the invitation of the German Government, the Interior or Justice Ministers of 27 European States met in Berlin to discuss the problem of illegal immigration from and through Central and Eastern Europe. The final communique of this conference contained a list of measures intended to improve co-operation in administering and policing controls and, to a lesser degree, to make complementary legislative changes. A working group, which became known as the Berlin Group, was established to implement these recommendations.
8. The first meeting of the Working Group took place in Graz in January 1992 under Austrian chairmanship. The Working Group agreed to set up nine sub-groups according to the following themes:
  - a. harmonising sanctions against smuggling illegal immigrants;
  - b. mutual legal assistance in prosecuting smugglers of illegal immigrants;
  - c. establishment of special forces to combat clandestine immigration networks;
  - d. exchange of information about illegal immigration;
  - e. procedures and standards to improve frontier controls;
  - f. readmission agreements;
  - g. implementation of readmission;
  - h. securing the external borders away from authorised crossing points;
  - i. obligation of carrier companies to prevent illegal entry.
9. Two plenary sessions of the Berlin Group took place in May 1992 and in January 1993, which were mainly devoted to the formulation of recommendations to be adopted at Ministerial level. On 15 and 16 February 1993, a Ministerial Conference was held in Budapest which adopted the outcome of all of these previous deliberations in the form of a recommendation. This recommendation followed the same pattern as the sub-division of the Working Group had done.

10. In addition to the recommendation mentioned above, the Conference also had before it an Austrian proposal for a Convention covering a range of issues concerning migration and asylum policies. This proposal was not adopted, however. No agreement was reached either on a German proposal concerning burden sharing. As for the follow-up to the Conference, it was agreed that, whenever necessary, a Working Group would be convened, but so far no such meeting has taken place. As a number of delegations at the Conference pointed out, however, many of the aspects dealt with by the Berlin Group may be picked up by the Vienna Group in future.
11. The Berlin and Budapest Conferences have certainly highlighted important issues in order to combat illegal immigration. They offered a good opportunity to stimulate the dialogue between Western, Central and Eastern European States on these matters.

### 3. Council of Europe

12. The Council of Europe's main fora on migration and asylum policies are the European Committee on Migration (CDMG) and the Ad Hoc Expert Committee on the legal aspects of territorial Asylum, Refugees and Stateless Persons (CAHAR). In addition, mention should be made of the Convention on the Legal Status of Migrant Workers: of the EC Member States, France, the Netherlands, Portugal and Spain have ratified this Convention and Belgium, Germany, Greece, Italy and Luxembourg have signed it. Under the terms of the Convention a Consultative Committee is established, inter alia, to discuss the implementation of the Convention by the States Parties to it. Four periodic reports have been submitted by the Committee to the Committee of Ministers.
13. One of the tasks of CDMG has been to prepare periodic Ministerial Conferences of European Ministers responsible for Migration Policies. The fourth of these Conferences took place on 17 and 18 September 1991 in Luxembourg and the fifth was held in Athens on 18 and 19 November 1993. Just like the work of CDMG, these Conferences are concerned with migration policies and migration flows as a whole, but also focus on the situation and integration of migrants already admitted into the territory of Member States and on the relations between immigrant populations and the host society. The Conference in Luxembourg, for example, concentrated on the actual and future evolution of migratory phenomena affecting Europe on the one hand and on the evaluation of the Community Relations Project of the Council of Europe on the other. The Conference in Athens focussed on the ways of handling migratory flows and on racism, xenophobia and intolerance.
14. CDMG's work programme also covers the following areas: first, in 1991, CDMG together with the European Population Committee launched a project called "Migration, demography and employment". In a first phase, three studies have been completed on South-North migration, on statistical questions relating to migration stock and flow figures and on the tension between humanitarian and economic considerations, when dealing with migration pressures. The second phase of this project will include a comparative study on integration policies. Secondly, CDMG has studied the legal, economic and social status of migrant workers and members of their families. Thirdly,

In 1987 CDMG set up the Community Relations Project which concentrates on integration policies. This Project was completed in 1991, when the final report on it was presented to the Ministerial Conference in Luxembourg. A more detailed discussion of this report also took place during a special Closing Conference in the Hague in November 1991. The main elements of the report have subsequently been incorporated in a Recommendation which was adopted by the Committee of Ministers of the Council of Europe in 1992. The Community Relations Project has now been replaced by a project aimed at achieving equality of opportunity for immigrants. It deals in particular with the situation of immigrants on the labour market, with their chances of obtaining proper housing and cultural rights, as well as with the fight against xenophobia. Finally, CDMG has undertaken studies concerning short term migration and the reintegration of emigrants into their country of origin.

15. The activities of CAHAR have been overshadowed by the recent enormous increase in the number of fora dealing with asylum policies. Although in the past, CAHAR produced a number of creative ideas and proposals in this area, the main task for this Committee at present is exchange of information on these policies. As Central and Eastern European States are increasingly being represented at these meetings, CAHAR may become one of the fora where discussions with these countries could be further developed.
16. Since the adoption of the Convention on reduction of cases of multiple nationality and military obligations in cases of multiple nationality 30 years ago, many States now favour a more liberal approach to cases of multiple nationality. A Committee of Experts is currently examining the Convention in the context of developments in the legislation and practice of European States and in the light of migratory movements in Europe and the opening of the Council of Europe towards the countries of Central and Eastern Europe. The Committee has made proposals for the preparation of a new Convention in the field of nationality.
17. Following the Declaration and Plan of Action on combating racism, xenophobia, antisemitism and intolerance adopted by the Head of State and Government of the Council of Europe Member States in Vienna on 9 October 1993, the Council of Europe has embarked on the organisation of a broad European Youth Campaign to mobilise the public in favour of a tolerant society based on the equal dignity of all its members and against manifestations of racism, xenophobia, antisemitism and intolerance, which will culminate mid 1995. Furthermore, it established a Committee of governmental experts with a mandate to: 1) review member States' legislation, policies and other measures to combat racism, xenophobia, antisemitism and intolerance, and their effectiveness; 2) propose further action at local, national and European level; 3) formulate general policy recommendations to Member States; 4) study international legal instruments applicable in the matter with a view to their reinforcement where appropriate. For the same reason, it was decided to start activities on the teaching of history and on awareness-raising of media professionals.
18. Reference should also be made to the case-law under the European Convention on Human Rights. The European Court of Human Rights has placed particular emphasis on the principle of family unity guaranteed under Art. 8 of the Convention which can be invoked to protect

migrant workers in cases of expulsion or refusal for entry for purposes of family reunion in a European State. In the context of the Union's work on family reunion, express reference has been made to the case-law of the European Court of Human Rights. For some time already, the organs of the Convention and the Court in particular, have also been able to apply Art. 3 of the Convention, which prohibits inhuman or degrading treatment, to persons claiming that return to their countries of origin could expose them to persecution; the Court has thus found it necessary to reaffirm that, even if the right of asylum is not guaranteed as such in the Convention, such measures of repatriation could raise problems from the standpoint of Art. 3 (as well as from that of Art. 13 which guarantees the right to an effective remedy).

#### 4. European Population Conference

19. From 23 to 26 March 1993 the European Population Conference took place in Geneva within the context of the preparation of the United Nations 1994 International Conference on Population and Development. It was organised by the UN Economic Commission for Europe, the Council of Europe and the UN Population Fund. The Conference was attended by representatives from 39 European States, Israel, Canada and the USA as well as by representatives of the EC. As this was a regional conference, it dealt exclusively with the European and North American situation, while naturally taking more global developments into account. It adopted a set of important recommendations not only covering demographic policies in a strict sense, but also migration and asylum policies. The most important of these will be highlighted in the following paragraphs.
20. On family planning the Conference adopted the following recommendations. First, it was recommended that Governments should adopt measures to enable individuals and couples to exercise their right to decide freely and responsibly the number and spacing of their children. These measures should increase the access of individuals and couples to education, information and the means of regulating their fertility, including the treatment of infertility, regardless of overall demographic goals. Counselling and quality family planning should be provided to reduce the number of abortions. Public authorities at national and local levels, non-governmental organisations and other institutions concerned should support non-coercive family planning services, which respect the values of recipients. Maternal and child health programmes and related reproductive health services should also be supported.
21. Against this background it is recommended that developing and developed countries alike should increase their political commitment to population-related programmes and policies, in accordance with their national priorities and goals and with due respect for fundamental human rights. Population-related programmes and policies should thus be an integral part of national development strategies.
22. On the relationship between demographic tendencies in Europe and North America and the possible need for immigration, the recommendations adopted are quite cautious. They state that Governments should appreciate that while certain imbalances in the labour market may be compensated for by immigration, immigration may not be a

full solution for the adjustment of the age structure. Heavy reliance on immigration to solve demographic imbalances could in the long run lead to substantial fluctuations in the age structures of national populations.

23. On migration and development it was recommended that Governments of countries of origin and destination should seek to address the causes of emigration in order to alleviate the massive and uncontrolled international migration flows. To counter these causes an increased effort would be needed to:

- achieve sustainable economic and social development;
- avoid international and internal conflicts;
- respect the rule of law;
- promote good government;
- strengthen democracy;
- promote human rights;
- support education, nutrition, health and population programmes;
- ensure effective environmental protection.

24. Taken from a demographic perspective, the Conference managed to formulate quite wide-ranging recommendations. These will be further considered at the Global Conference on these issues to be held in Cairo in 1994.

#### 5. Transatlantic dialogue

25. Traditionally, policies on migration and asylum of the European States were very different from those of the North American continent. The USA and Canada have always considered themselves immigration countries, whereas the European States have not. However, attitudes have recently been changing on both sides.

26. Whereas almost all of the European States have to admit that at least de facto they have become net immigration countries, in the USA and Canada there is a growing feeling that uncontrolled migration can no longer be tolerated, as there are limits to the amount of immigration these countries can absorb. These developments lead towards a certain convergence of policies and an increased mutual interest in each others' policies. Such an interest in intensified co-operation on migration and asylum policies has been expressed by the Canadian Government and more recently by the US Government.

27. There have been a number of instances showing the desire for a more intensified form of co-operation. As early as 1990, the Declaration on EC-Canada Relations envisaged joint efforts in meeting transnational challenges posed by irregular migration. In December 1992, it was proposed at the transatlantic summit in Ottawa to create an EC-Canada working group on this. Similarly, the USA Government has recently mentioned immigration and asylum as one of the topics to be discussed within the framework of the Transatlantic Declaration, which provided the basis for a regular EC-USA dialogue in 1991.

28. Before the entry into force of the Treaty on European Union, migration and asylum policies were primarily discussed within the intergovernmental framework, so it has proved difficult to establish the necessary contacts within these structures. There have

been other channels of communication, however. One of these is the regular Troika-meeting with representatives of a number of third countries during the formal TREVI-Ministerial meetings. Proposals to further enhance these structures are under consideration in the context of specific areas of interest identified by the United States and Canada.

29. Discussions taking place within the framework of the Intergovernmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia are of a more informal character and not all Member States are represented; neither is the Commission or the Council Secretariat.
30. The key areas Canada and the USA are interested in, are the elaboration of a comprehensive approach on immigration and asylum, the fight against illegal immigration and the setting up of fair and efficient asylum procedures.
31. Both Canada and the USA face increasing problems with irregular movements. In Canada, the Immigration Policy Group<sup>1</sup> issued a report stating that the consensus on Canada's traditional immigration policies "could be threatened if Canadians feel the Government is not in control of who enters Canada, and in what numbers". Apart from the curative measures that could be taken at national level, the Policy Group concludes that in the long run preventive measures requiring international co-operation with other receiving countries as well as with countries of origin may turn out to be just as important.
32. As for asylum policies, the USA is facing a backlog of about 200.000-250.000 cases. With a yearly inflow of about 100.000 cases and staffing arrangements to deal with 50.000 cases a year, this backlog is bound to increase substantially in the years to come. Against this background, the US Administration has shown interest in the harmonisation process the Community and its Member States are engaged in on asylum law and policy. Secondly, the US Administration would, like its Canadian counterpart, be interested in working together on the collection and analysis of country of origin information.

#### 6. Other International fora

33. It would be almost impossible to present within the present context an exhaustive list of all the international fora dealing with migration issues. Migration has become such a politically relevant phenomenon that by now practically all major international organizations have done some work in this area. Without going into any detail, mention should be made of the relevant activities of ILO, IOM, and ECE, but even organizations that did not traditionally devote attention to the migration issue, such as the IMF, World Bank and GATT have now taken an active interest in the subject.
34. Traditionally, OECD has done important work by collecting data on migrant workers (SOPEMI). The Working Party on Migration has long discussed migration issues, originally from the perspective of the

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<sup>1</sup> Employment and Immigration Canada: An Approach to International Migration, January 1993.



interaction between the labour market and migration, and now including more general elements of migration policies. More recently, the Development Assistance Committee has also developed an interest in migration. Together with Canada, the OECD organised a Conference on migration and development in March 1993 in Madrid.

35. CSCE increasingly pays attention to various aspects of migration. The CSCE Human Dimension Implementation Meeting which was held in Warsaw from 27 September till 15 October 1993 dealt, inter alia, with involuntary migrants and refugees. Similarly, a Seminar on Migrant Workers will take place in the last week of March 1994. Although these meetings do not produce any formal conclusions, they nevertheless provide an interesting forum for an exchange of views between all CSCE-partners. Particular reference should be made to the work undertaken by the High Commissioner on Minority Rights: his concern is to prevent mass movements of minority groups by setting up a proper system of protection for ethnic minorities.
36. Ever more organizations belonging to the UN have become active in the field of immigration and asylum policies. Of these, UNHCR (UN High Commissioner for Refugees) is the most directly relevant organization. At the global level, UNHCR implements since 1952 its mandate to protect and assist refugees. According to Article 35 of the 1951 Convention, UNHCR has furthermore the duty of supervising the application of the provisions of the Convention. EXCOM (Executive Committee of the High Commissioner's Programme) provides UNHCR and the international community guidance for responding to refugee situations and implementing refugee and asylum policy. Its conclusions are confirmed by ECOSOC and the General Assembly of the United Nations and constitute highly important principles of refugee law and policy, even though they are not legally binding. The Union and its Member States are engaged in a close co-operation with UNHCR. Eight are members of EXCOM. The combined contribution from the Commission and the individual Member States amounted in 1993 to US\$ 450 million, being almost half of the total contributions to UNHCR. In December 1993, a European Commission-UNHCR framework partnership agreement for the financing of humanitarian operations was signed. On the basis of this agreement, the Commission will enter into a dialogue with UNHCR, within the framework of a joint high level group, Commission - UNHCR, which has been created upon request of the UN High Commissioner for Refugees, Mrs. Ogata.
37. Recognition of UNHCR's global responsibility and role in developing principles of international refugee law has been expressed in the regular informal dialogue with UNHCR in matters relating to the harmonization of asylum law and policy. UNHCR advocates the development of a comprehensive refugee policy, including prevention, protection and durable solutions and based on close international and interagency co-operation with other UN bodies and regional institutions. In this connection, UNHCR welcomed the recognition by the European Council of Edinburgh of the need for such a policy and indicated to stand ready to be associated in its formulation.

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