ASSEMBLEIA DA REPÚBLICA
COMISSÃO DE ASSUNTOS CONSTITUCIONAIS, DIREITOS, LIBERDADES E GARANTIAS

EXCELENTÍSSIMA SENHORA PRESIDENTE DA ASSEMBLEIA DA REPÚBLICA

Ofício n.º 108/XIII/1.ª – CACDLG /2016 **Data: 10-02-2016**

Assunto: Relatório da participação na reunião com os representantes das Comissões responsáveis pelas matérias relacionadas com o "Espaço Schengen e Imigração nos Parlamentos dos Estados Membros da União Europeia e Estados Schengen", Itália – 11 de dezembro de 2015.

Nos termos do n.º 4 do artigo 42.º do Regimento da Assembleia da República e para o efeito da sua publicação na II Série-D do DAR, junto envio a Vossa Excelência o relatório da participação da Assembleia da República na reunião com os representantes das Comissões responsáveis pelas matérias relacionadas com o ***Espaço Schengen e Imigração nos Parlamentos dos Estados Membros da União Europeia e Estados Schengen"***, que decorreu em Roma, no dia 11 de dezembro de 2015 e na qual participou, pela Comissão de Assuntos Constitucionais, Direitos Liberdades e Garantias, a Senhora Deputada Susana Amador (PS).

Mais informo que o conteúdo do presente relatório foi apresentado na reunião da Comissão de 10 de fevereiro de 2016.

Com os meus melhores cumprimentos,

O PRESIDENTE DA COMISSÃO

(Bacelar de Vasconcelos)

ASSEMBLEIA DA REPÚBLICA
Divisão de Apoio às Comissões
CACDLG
n.º Única 538089
Entrada/Saída n.º 108 Data 10/02/2016

Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias
Assembleia da República – Palácio de São Bento - 1249-068 Lisboa
Tel. 21 391 92 91/96 67 / Fax: 21 393 69 41 / E-mail: 1CACDLG@ar.parlamento.pt

ASSEMBLEIA DA REPÚBLICA

Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias

RELATÓRIO DE PARTICIPAÇÃO

Reunião com os Representantes das Comissões Responsáveis pelas matérias relacionadas com o Espaço Schengen e Imigração nos Parlamentos dos Estados Membros da União e Estados Schengen, a convite do Parlamento Italiano

(Roma, Palazzo San Macuto,11 de dezembro de 2015)

Autora: Deputada Susana Amador

I - Enquadramento

O impacto da pobreza e dos conflitos mundiais não param nas fronteiras nacionais. Conciliar o respeito pelos nossos compromissos internacionais e valores éticos, garantindo ao mesmo tempo a segurança das nossas fronteiras sem deixar de criar as condições adequadas para a prosperidade económica e a coesão social da Europa, é um equilíbrio difícil de alcançar que exige ações coordenadas, tal como referido na Comunicação da Comissão ao Parlamento Europeu, ao Conselho, ao Comité Económico e Social e ao Comité das Regiões de 13 de maio de 2015.

Não obstante todos os esforços do ACNUR e da União Europeia que apresentou os progressos já alcançados na execução das ações prioritárias no quadro da Agenda Europeia para as Migrações, a situação continua muito problemática e longe de estar controlada.

A Agenda Europeia para as Migrações refere a necessidade de se adotar uma abordagem global para a gestão das migrações, assente na resolução das causas profundas e raízes dos problemas e define quatro níveis de ação para uma politica de migração da EU que seja justa, sólida e realista.

Desde então, foram adotadas várias medidas, incluindo dois mecanismos de emergência para a recolocação noutros Estados-Membros de 160.000 pessoas com necessidade manifesta de proteção internacional que se encontram nos Estados-Membros da UE mais afetados, tendo também sido aprovado o plano de ação da Comissão em matéria de regresso.

Em termos de apoio orçamental, a Comissão já propôs alterações aos orçamentos de 2015 e 2016, tendo aumentado em 1,7 mil milhões de euros os recursos consagrados à crise dos refugiados

A relação final entre os Direitos Humanos e os problemas dos refugiados reside na formulação e adoção de soluções duradouras. Enquanto existirem violações dos Direitos Humanos nos países de origem, duvida-se que algum refugiado decida regressar voluntariamente.

Assim, o restabelecimento do respeito por todas as categorias de direitos e a promoção dos mesmos, assim como o fim dos violentos conflitos nos países de origem, são condições necessárias para que se realize o regresso voluntário. Afinal, tudo começa com a violação de um ou mais direitos e tudo pode cessar com o restabelecimento desse direito.

A prevenção dos conflitos, a supervisão internacional permanente, a condenação das violações perpetradas e a assistência ao desenvolvimento são determinantes.

II - Conclusões da Reunião

A reunião teve como tema principal a compatibilidade da área Schengen com as novas exigências de segurança existentes na Europa provocadas pelo aumento do Terrorismo e pelos fluxos migratórios.

Estiveram presentes representantes de 14 países (Áustria, Alemanha, Reino Unido, Grécia, Hungria, Itália, Lituânia, Noruega, Polónia, Portugal, Roménia, Eslovénia, Espanha e Suécia) que tiveram a oportunidade de fazer um ponto de situação sobre a

dimensão nacional das questões objeto da reunião e a importância da busca de soluções comuns à escala europeia.

A defesa do acervo Schengen como grande conquista da União Europeia e a sua relevância para a liberdade de circulação foi comum a todas as intervenções.

Foram ainda identificadas como prioritárias a adoção de medidas que permitam a melhoria de funcionamento e garantam mais eficácia ao Regulamento Dublin e o reforço das fronteiras externas, constituindo o FRONTEX um mecanismo de máxima utilidade.

Ressaltou ainda de algumas intervenções a necessidade de estabelecer claramente a destrinça entre refugiados/requerentes de asilo e migrantes porquanto os instrumentos jurídicos aplicáveis, o grau de proteção e a natureza dos processos são diferentes.

Por seu turno, considerou-se que a ameaça terrorista veio colocar novos problemas de segurança e de controlo de fronteiras que poderão ameaçar todo o *acquis* Schengen o que seria um retrocesso para a Europa e para a sua própria identidade. A solução segundo os participantes será sempre mais europa e não menos Europa.

III - A Declaração Final

No final da reunião foi deliberado que se prepararia um *draft* que assumiria a forma de declaração final.

Essa Declaração, na sua versão definitiva, foi remetida aos serviços da Assembleia da República no passado dia 2 de fevereiro e faz parte integrante deste relatório como anexo (redigida em inglês e italiano), para efeitos de apreciação pelos membros da Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias.

Nessa Declaração final ficou enfatizada a necessidade de:

a) Reforçar o Espaço Schengen, agilizando e melhorando o controlo das fronteiras externas;

b) Rever o Regulamento Dublin, de forma a que a livre circulação de pessoas, mercadorias e serviços no espaço Schengen seja compatível com as novas exigências e procedimentos de segurança na Europa;

c) Conjugar esforços para instar os Governos de cada Estado a reconhecer a necessidade de desenvolver esforços nos respetivos Parlamentos na adoção de alterações e/ou atualização dos Acordos de Schengen;

d) Organizar no futuro reuniões informais com os representantes das Comissões competentes por esta área, de forma a construir um diálogo permanente e efetivo ao nível parlamentar nos tópicos: Schengen, migrações e asilo.

Palácio de São Bento, 3 de Fevereiro de 2016

A Deputada Relatora,

(Susana Amador)

ANEXO

DRAFT FINAL DECLARATION

The representatives of the Parliamentary Committees responsible for Schengen and immigration affairs of Austria, Germany, Great Britain, Greece, Hungary, Italy, Lithuania, Norway, Poland, Portugal, Romania, Slovenia, Spain and Sweden, participating in an informal meeting on 11 December 2015 organized in Rome by the Italian Parliamentary Committee for the Oversight of the Enforcement of the Schengen Agreement, of Europol activities and the Control and Oversight of immigration Affairs,

Whereas:

1) the holding of the meeting was a first positive result in itself, and provided the first occasion for further inter-parliamentary cooperation on the question of immigration and the control of the Schengen Area;

2) in their contributions, the MPs taking part in the meeting underscored the need for greater European-level coordination on the management of migratory pressures, the prevention of the risk of new terrorist attacks and the strengthening of external borders by some EU and Schengen area member states;

3) the cowardly and deplorable terrorist attacks in Europe, most recently in Paris, along with those carried out in other parts of the world, constitute a challenge for Europe which can only be conquered with unity and determination;

4) while in agreement with the decisions of the Council of Horne Affairs Ministers of the EU on 4 December last, which approved a compromise text with the European Parliament regarding a proposal for a directive on the use of passenger name records (PNR) by the security services for investigative work and the prevention of terrorist offences, as well as the legal basis for the strengthening of Europol, the Meeting underlined the inappropriateness of taking such decisions only at governmental level without prior parliamentary consideration and debate in the legislatures of the various States. The Meeting emphasised in this connection that the Schengen Agreement of 14 June 1985 for the gradual abolition of controls at the common borders, and the Convention of 19 June 1990 were transposed by national Parliaments and that therefore any subsequent amendment or proposal to strengthen the Agreement or calling it into question should be decided by Parliaments, which embody the will of the people;

in light of the foregoing

declare that:

a) it is necessary to strengthen the Schengen Area, by enhancing controls at the external borders;

b) a review of the Dublin Regulation is also called for, so that the free movement of people, goods and services within the Schengen Areas compatible with the new security requirements in Europe;

c) joint efforts are also necessary to urge the governments of individual countries to recognize the need to engage Parliaments in any amendments or updating of the Schengen Agreement;

d) in this perspective, it is deemed appropriate to organize in the future regular informal meetings between representatives of the Committees responsible for Schengen and immigration affairs of the national parliaments of the EU and the Schengen area member states, so that a more effective parliamentary dialogue on these topics can be promoted.

PROPOSTA DI DICHIARAZIONE FINALE

I rappresentanti delle Commissioni competenti in materia di Schengen e immigrazione dei Parlamenti nazionali di Austria, Germania, Gran Bretagna, Grecia, Italia, Lituania, Norvegia, Polonia, Portogallo, Romania, Slovenia, Spagna, Svezia e Ungheria, intervenuti alia riunione informale dell'11 dicembre 2015 organizzata a Roma dai Comitato parlamentare di controllo e vigilanza su Schengen, Europol e immigrazione dei Parlamento italiano,

premesso che:

1) lo svolgimento della riunione ha rappresentato un primo positivo risultato e una prima occasione di avanzamento della cooperazione interparlamentare in materia di immigrazione e controllo sull'Area Schengen;

2) gli interventi svolti dai parlamentari partecipanti hanno evidenziato la necessità di un maggior coordinamento a livello europeo in materia di gestione della pressione migratoria, prevenzione dei pericolo di nuovi attentati terroristici e potenziamento delle frontiere esteme da parte di alcuni Stati membri Ue e Schengen;

3) risultano vili e deprecabili i recenti attentati che hanno colpito !'Europa e da ultimo Parigi, e altre parti del mondo, che rappresentano una sfida per l'Europa che si potrà vincere solo se sarà affrontata con unità e detertninazione;

4) pur condividendo quanto deciso lo scorso 4 dicembre dai Consiglio dei Ministri degli intemi dell'Ue che ha approvato il testo di compromesso con il Parlamento europeo sulla proposta di direttiva sull'uso da parte dei servizi di sicurezza dei passenger name records (PNR) per fmalità investigative e di prevenzione di reati di terrorismo, nonché la base legale per il rafforzamento di

Europol, nel corso della riunione e stata evidenziata l'inopportunità che simili decisioni vengano prese solo a livello govemativo e non abbiano un preliminare esame e dibattito parlamentare nelle Assemblee legislative dei singoli Stati.

Cio nel rispetto dei fatto che l'Accordo di Schengen dei 14 giugno 1985 per l'eliminazione graduale dei controlli tra le frontiere comuni, nonché la Convenzione dei 19 giugno 1990, sono stati

recepiti dai singoli Parlamenti nazionali e pertanto ogni loro modifica, potenziamento e/o messa in discussione dovrebbe essere decisa dai parlamenti che rappresentano la volontà popolare.

Tutto cio premesso,

dichiarano che

a) e necessario potenziare l'Area Schengen, potenziando i controlli alle frontiere esteme;

b) e altresi necessaria una revisione dei regolamento di Dublino per rendere compatibile la libera circolazione di persone, beni e servizi nell'Area Schengen con le nuove esigenze di sicurezza in Europa;

c) appare necessario uno sforzo comune per far riconoscere ai Governi dei rispettivi Paesi la necessità dei coinvolgimento parlamentare in relazione ad ogni modifica e/o aggiomamento degli accordi di Schengen;

d) in questa ottica, si ritiene utile in futuro proseguire con incontri informali periodici tra rappresentanti delle Commissioni competenti in materia Schengen e immigrazione, dei Parlamenti nazionali degli Stati membri dell'UE e di quelli aderenti all'Area Schengen, in modo da favorire un maggior dialogo su queste tematiche a livello parlamentare.

URGENTE

Por determinação de Sua Excelência o Presidente da A.R. ao Sr. Dr. Bacelar de Vasconcelos

3/12/15

ASSEMBLEIA DA REPÚBLICA
Gabinete do Presidente
N.º de Entrada 538089
Classificação
Data 03/12/2015

ASSEMBLEIA DA REPÚBLICA
COMISSÃO DE ASSUNTOS CONSTITUCIONAIS, DIREITOS, LIBERDADES E GARANTIAS

- AO GABIP
- cc DSATB
- cc DSAF

EXCELENTÍSSIMO SENHOR PRESIDENTE DA ASSEMBLEIA DA REPÚBLICA

2015.12.03

Ofício n.º 22/1ª-CACDLG/2015 **Data: 03-12-2015**

***Assunto:** Reunião interparlamentar ad hoc para troca de opiniões sobre propostas e iniciativas parlamentares relacionadas com Schengen, Migrações e Asilo – Roma – 11 de dezembro de 2015.*

Tendo presente o convite da Presidente da Comissão de controlo da aplicação do Acordo Schengen, fiscalização das atividades da EUROPOL e controlo e fiscalização da imigração da Câmara de Deputados italiana, Laura Ravetto, em anexo, para participação numa reunião interparlamentar ad hoc para troca de opiniões sobre propostas e iniciativas parlamentares relacionadas com Schengen, Migrações e Asilo, que se realiza em Roma a 11 de dezembro de 2015, serve o presente para solicitar a Vossa Excelência se digne autorizar que a representação da Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias seja assegurada pela Senhora Deputada Susana Amador (PS).

Caso esta proposta colha a anuência de Vossa Excelência, solicito-lhe se digne autorizar que a deslocação, que se prevê ter um custo de 1200 euros (bilhetes de avião e estadia) e para a qual, de acordo com a informação disponível, existe dotação orçamental, seja considerada missão da Assembleia da República para todos os efeitos, assegurando os serviços competentes da Assembleia da República todos os procedimentos e diligências devidas.

ASSEMBLEIA DA REPÚBLICA
Direção de Apoio à Comissão
CACDLG
538089
22 3/12/2015

O PRESIDENTE DA COMISSÃO

(Bacelar de Vasconcelos)

ASSEMBLEIA DA REPÚBLICA
Gabinete do Secretário-Geral
Nº
Pº
Data / /

Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias
Assembleia da República – Palácio de São Bento - 1249-068 Lisboa
Tel. 21 391 92 91/96 67 / Fax: 21 393 69 41 / E-mail: 1CACDLG@ar.parlamento.pt

Odete Lage Alves

De:	COSTA Maria Joao (PT-Parliament) <mariajoao.costa@natparl.ep.europa.eu>
Enviado:	sexta-feira, 27 de Novembro de 2015 17:01
Para:	Comissão 1ª - CACDLG XIII
Cc:	Nélia Monte Cid; Margarida Ascensão; 'fernado.ribeiro@ar.parlamento.pt'; João Nuno Amaral; Cláudia Ribeiro
Assunto:	Meeting at the Italian Parliament on Schengen , migration and asylum - Invitation
Anexos:	lettere Ravetto_ presidenti omologhi UE_Schengen.pdf

Boa tarde,

Junto envio carta dirigida ao Sr. Presidente da Comissão de Assuntos Constitucionais, Direitos, Liberdades e Garantias, na qual a Presidente da Comissão de controlo da aplicação do Acordo Schengen, fiscalização das atividades da EUROPOL e controlo e fiscalização da imigração da Câmara de Deputados italiana, Laura Ravetto, convida o seu homólogo para uma reunião interparlamentar ad hoc, no dia 11 de dezembro de 2015, entre as 9 e as 14h. O objetivo da reunião é a troca de opiniões sobre propostas e iniciativas parlamentares relacionadas com Schengen, Migrações e Asilo.

A organização informa que a reunião é no formato 1+1, isto é, o Presidente (eventualmente substituído por um Vice-Presidente ou Deputado) e um Assessor parlamentar.

Para efeitos de inscrição, até dia 4 de dezembro, deverá ser utilizado o email: comit_schengen@camera.it. Agradecia que, caso a Comissão delibere a participação de um dos seus membros, no ato de inscrição o email seja enviado com cc para mim, o que desde já agradeço.

Bom fim-de-semana!

Maria João Costa

Maria João Costa

Representante Permanente da Assembleia da República junto da UE
Permanent Representative of the Portuguese Parliament to the EU

Parlamento Europeu / European Parliament
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[illegible]
[illegible]
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[illegible]
E-mail: mariajoao.costa@natparl.ep.europa.eu

Camera dei Deputati - Senato della Repubblica
COMITATO PARLAMENTARE DI CONTROLLO
SULL'ATTUAZIONE DELL'ACCORDO DI SCHENGEN,
DI VIGILANZA SULL'ATTIVITÀ DI EUROPOL,
DI CONTROLLO E VIGILANZA IN MATERIA DI IMMIGRAZIONE

IL PRESIDENTE

Camera dei Deputati
PARTENZA 25 Novembre 2015
Prot: 2015/0001040/SG-CIV

Gentili Colleghi,

faccio seguito alla mia lettera del 18 marzo scorso con la quale vi preannunciavo l'intendimento di organizzare un incontro a Roma, per condividere insieme proposte e iniziative parlamentari nelle materie relative allo Spazio Schengen, all'immigrazione e all'asilo, di competenza delle Commissioni da noi presiedute.

I recenti, tragici eventi terroristici che hanno colpito Parigi impongono a mio giudizio una accelerazione a questa riflessione, per condividere insieme la valutazione sulla compatibilità del mantenimento dell'Area Schengen con le nuove esigenze di sicurezza che si rendono necessarie in Europa.

L'obiettivo rimane quello di avviare un proficuo, reciproco scambio di informazioni al riguardo, di fronte all'esigenza non più rinviabile di affrontare, in maniera organica e condivisa, politiche idonee a trovare soluzioni adeguate da sottoporre ai rispettivi Governi e, conseguentemente, alle istituzioni europee.

Chiedo quindi la vostra disponibilità a presenziare alla riunione, da svolgere in lingua inglese, che vorrei tenere il prossimo venerdì 11 dicembre 2015 a partire dalle ore 9 fino alle 14 circa, a Roma, presso la sede del Comitato, in Palazzo San Macuto, via del Seminario 76, per confrontarci in via informale sulla compatibilità dello Spazio Schengen con le nuove esigenze di sicurezza determinate dagli ultimi attacchi terroristici che hanno colpito l'Europa.

Auspico una larga partecipazione e condivisione dell'iniziativa da parte vostra, considerando fondamentale la disponibilità e il contributo di tutti noi nell'affrontare un tema così importante.

In attesa di un Vostro cortese riscontro, porgo i migliori saluti.

Laura Ravetto

Ai presidenti delle Commissioni competenti
in materia di Schengen, Europol, e immigrazione
dei Parlamenti nazionali degli Stati membri
dell'Unione europea e aderenti all'Accordo di Schengen

Camera dei Deputati - Senato della Repubblica

COMITATO PARLAMENTARE DI CONTROLLO
SULL'ATTUAZIONE DELL'ACCORDO DI SCHENGEN,
DI VIGILANZA SULL'ATTIVITÀ DI EUROPOL,
DI CONTROLLO E VIGILANZA IN MATERIA DI IMMIGRAZIONE

IL PRESIDENTE

Camera dei Deputati
PARTENZA 25 Novembre 2015
Prot: 2015/0001040/SG-CIV

Dear Colleagues,

I am writing to you following my letter of 18th March last, in which I informed you about my intention to organise a meeting in Rome, in order to have an exchange of views on proposals and parliamentary initiatives in matters pertaining to the Schengen Area, migration and asylum, which fall under the responsibility of our own Committees.

The recent tragic terror attacks in Paris have highlighted, in my view, the urgent need to hold a meeting without delay, so as to jointly assess whether the Schengen system is compatible with the new security requirements in Europe.

Our goal remains to start a fruitful exchange of relevant information in light of the unpostponable need to adopt shared and comprehensive policies capable of finding solutions to be submitted to our respective Governments and, subsequently, to European institutions.

I would be grateful if you could participate in the said meeting, to be held in English, which I would like to organize in Rome, in the meeting room of my Committee (Palazzo San Macuto, Via del Seminario 76), on Friday 11th December 2015, from 9 a.m. to 2 p.m. approximately. The meeting would mark an opportunity to have an informal exchange on the effectiveness of the Schengen Area in light of the new security requirements brought about by the latest terror attacks in Europe.

I do hope that a large number of you will support and attend the meeting, as we are all called upon to make our contribution to addressing such a crucial problem.

Looking forward to receiving your reply, I remain

Yours Very Truly

Laura Ravetto

To the Chairs of Committees responsible for matters
related to the Schengen Area and immigration
of National Parliaments of EU member states
and Schengen member states

COMITATO PARLAMENTARE DI CONTROLLO SULL'ATTUAZIONE DELL'ACCORDO DI SCHENGEN, DI VIGILANZA SULL'ATTIVITÀ DI EUROPOL, DI CONTROLLO E VIGILANZA IN MATERIA DI IMMIGRAZIONE

IT

"La compatibilità dell'Area Schengen con le nuove esigenze di sicurezza in Europa"
Palazzo San Macuto, Roma, venerdì 11 dicembre 2015

RIUNIONE DI RAPPRESENTANTI DELLE COMMISSIONI COMPETENTI IN MATERIA DI SCHENGEN E IMMIGRAZIONE DEI PARLAMENTI NAZIONALI DEGLI STATI MEMBRI DELL'UNIONE EUROPEA E ADERENTI ALL'ACCORDO DI SCHENGEN

Bozza 9.12 2015 h. 16.30

PARTECIPANTI

AUSTRIA

Consiglio Federale -
Commissione affari interni

Gerhard Schödinger, Presidente -

Consiglio Nazionale -
Commissione affari interni

Werner Amon, Vice presidente

(accompagnati da Ministro Gerda Vogl, Ambasciata di Austria in Italia)

FRANCIA

In attesa di conferma

GERMANIA

Bundestag – Commissione affari interni: Ansgar Heveling, Presidente

(sarà accompagnato da Bianca Schulz e Alexander Schmitt, Interpreti)

GRAN BRETAGNA

House of Commons – European Affairs Committee –William Cash, Presidente

GRECIA

Parlamento greco – Commissione pubblica amministrazione: Giorgos Psychogios, Componente

LITUANIA

Seimas – Commissione affari europei: Linas Balsys, Vice Presidente

(accompagnato da Elzė Kolelė, Consigliere).

NORVEGIA

Stortinget - Commissione governo locale e pubblica amministrazione:

Stein Erik Lauvås, Presidente

Geir Toskedal, Componente

(accompagnati da Live Hagtvedt, Ambasciata di Norvegia in Italia)

POLONIA

Senato - Commissione diritti umani, Ruolo della legge: Michal Sewerynski, Presidente

PORTOGALLO

Assemblea della Repubblica - Commissione Affari Costituzionali: Susana Amador, Componente

(accompagnata Fernando Bento Ribeiro, Consigliere)

ROMANIA

Camera dei deputati - Commissione affari europei: Ana Birchall, Presidente

SLOVENIA

Assemblea Nazionale – Commissione interni: Lilijana Kozlovič, Presidente

SPAGNA

Congresso dei deputati – Ignacio Gil Lazaro, Primo Segretario

(accompgnato da José Manuel Miranda López, Consigliere Legale)

SVEZIA

Riksdag - Commissione assicurazione sociale: Johanna Jönsson, Componente

UNGHERIA

Assemblea nazionale – Commissione affari esteri: Zsolt Csenger-Zalán, Vice-presidente

RAVETTO Laura - FI-PDL

Born in CUNEO on 25th January 1971

Law degree; lawyer

Elected for the constituency

IV (LOMBARDY 2)

Electoral list

PEOPLE OF FREEDOM

Proclaimed MP

5th March 2013

Membership in Previous Parliaments:

15th Parliament (2006-2008): Member of the Chamber of Deputies' Committee on Budget, Treasury and Planning

16th Parliament (2008-2013): Head of the Italian delegation to the Parliamentary Dimension of the Central European Initiative. In the same Parliament she also served as Undersecretary of State for Relations with the Parliament during the 4th Berlusconi Government (2008-2011)

Member of the following Parliamentary Group:

FORZA ITALIA - PEOPLE OF FREEDOM - BERLUSCONI FOR PRESIDENT (since 19th March 2013)

Parliamentary positions:

- Chair of the Parliamentary Committee for Oversight of the Enforcement of the Schengen Agreement, Oversight of Europol Activities, and the Control and Oversight of Immigration Affairs (since 15th October 2013)

Member of the following parliamentary bodies:

- Committee on Constitutional, Presidency of the Council of Ministers and Interior Affairs (since 7th May 2013)
- Parliamentary Committee for Oversight of the Enforcement of the Schengen Agreement, Oversight of Europol Activities, and the Control and Oversight of Immigration Affairs (since 19th July 2013)
- Parliamentary Committee of Inquiry into the reception, identification and holding of migrants in reception centres, in reception centres for asylum-seekers as well as in identification and expulsion centres (since 20th March 2015)

The Italian Parliamentary Committee for Oversight of the Enforcement of the Schengen Agreement, Oversight of Europol Activities, and the Control and Oversight of Immigration Affairs

The Parliamentary Committee for monitoring the enforcement of the Schengen Agreement and for the control and oversight of the activities of Europol and of immigration and related matters was set up pursuant to article 18 of Law 388 of 30 September 1993, which ratified the Schengen Agreement of 14 June 1985 for the gradual abolition of internal border controls in the EU as well as the Convention of 19 June 1990 for the implementation of the Schengen Agreement. The Committee itself was established for the first time in 1995 during the Twelfth Parliament. Matters pertaining to the Schengen Agreement, which were initially managed at an intergovernmental rather than at a EU level, were later incorporated into the legal framework of the European Union by the Treaty of Amsterdam of 1997, which came into force on 1 May 1999, by means of the so-called "communitarisation" of the Schengen *acquis*. As a result, matters concerning immigration, asylum, border control and judicial cooperation in civil law were incorporated into the Treaty establishing the European Community (under new Title IV Part Three: Articles 61-69).

The Committee is composed of ten Members of the Chamber of Deputies and ten Members of the Senate who are appointed by the Presidents of their respective Houses in proportion to the strength of the parliamentary Groups. As prescribed by article 18.3 of the instituting law, the Committee elects a chair, vice-chair and secretary from among its own members.

Later, article 6 of Law 93 of 23 March 1998 ratifying the Convention based on Article K3 of the Treaty on European Union establishing a European Police Office (Europol) gave the Committee the additional responsibility of overseeing the activities of the national unit of Europol. Under paragraph 2 of the aforementioned

article, the Government must submit an annual report to the Committee on the implementation of the Europol Convention. Under the current Parliament, the last such report, submitted by the Ministry of the Interior, refers to 2013 (Document CXXXII no. 2, announcement of 7 August 2014).

The powers of the Committee as described above remained unchanged until amended by article 37 of Law 189 of 30 July 2002 (the "Bossi-Fini" Law), which vested the Committee with additional powers to set policy guidelines for and oversee the enforcement of the said Law, and to also oversee international agreements and other legislation regarding immigration and asylum. The article stipulates that the Government must submit an annual report on these matters to the Committee, and that the Committee must report annually on its activities to the Houses of Parliament.

The next relevant legislation was Law 85 of 30 June 2009, which referred to the accession of Italy to the Prüm Treaty on the strengthening of cross-border cooperation, in particular to combat terrorism, cross-border crime and illegal migration. Concluded on 27 May 2005, the Treaty specifies in article 30 that the Minister of the Interior shall annually report to the Committee on the status of implementation of the provisions of the Treaty, as well as on actions taken and agreements made, with specific reference to the implementation of Article 44 of the same Treaty. The most recent document in this regard is the "Report on the activities of the National DNA Data Bank and of the Central Laboratory compiled in accordance with the provisions of the Prüm Treaty", Document CCXXXV-*bis* no. 1 announcement of 6 August 2012, which also gives effect to the provisions of article 19.1. of Law 85 of 2009.

Successive modifications to the Schengen *acquis* were effected by means of typical EU legislative instruments (decisions, regulations, directives). Regulation 562/2006 (EC) of 15 March 2006 established a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). As a

consequence of the foregoing, the Committee's powers of oversight of the implementation of the Schengen Agreement were substantially redefined.

Il Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione e le sue competenze.

Il Comitato parlamentare di controllo sull'attuazione dell'Accordo di Schengen, di vigilanza sull'attività di Europol, di controllo e vigilanza in materia di immigrazione è stato istituito dall'articolo 18 della legge 30 settembre 1993, n. 388, di Ratifica dell'Accordo di Schengen del 14 giugno 1985 per l'eliminazione graduale dei controlli tra le frontiere comuni, nonché della Convenzione del 19 giugno 1990, ed è stato costituito per la prima volta nella XII legislatura, nel 1995. La materia relativa all'Accordo di Schengen, inizialmente gestita in ambito intergovernativo, non comunitario, è stata successivamente inserita nel quadro legislativo dell'Unione europea attraverso il Trattato di Amsterdam del 1997, entrato in vigore il 1° maggio 1999, attraverso la cosiddetta comunitarizzazione dell'acquis di Schengen. Sono state infatti trasferite nel Trattato che istituisce la Comunità europea (nuovo Titolo IV della Parte terza: articoli 61-69) le materie dell'immigrazione, dell'asilo, del controllo delle frontiere e la cooperazione giudiziaria in materia civile.

Il Comitato è composto da dieci deputati e dieci senatori, nominati dai Presidenti delle Camere, in modo da rispecchiare la proporzione dei gruppi parlamentari. Il Comitato elegge al suo interno, così come stabilisce la legge istitutiva all'articolo 18, comma 3, un Presidente ed un Vicepresidente e un Segretario.

L'articolo 6 della legge 23 marzo 1998, n. 93, di ratifica della Convenzione basata sull'articolo K3 del Trattato sull'Unione europea che istituisce un Ufficio europeo di polizia (Europol), ha successivamente attribuito al Comitato anche funzioni di vigilanza sull'attività dell'Unità nazionale Europol. In base al comma 2 dell'articolo indicato, il Governo deve presentare annualmente al Comitato una relazione sull'attuazione della Convenzione Europol, ciò che nella legislatura in corso

è avvenuto con la relazione relativa al 2013, trasmessa dal Ministro dell'interno (doc. CXXXII n. 2, annuncio del 7 agosto 2014).

Le competenze del Comitato così delineate sono rimaste invariate fino a quando non è intervenuto l'articolo 37 della legge 30 luglio 2002, n. 189, cosiddetta legge Bossi-Fini, che ha quindi attribuito al Comitato compiti di indirizzo e vigilanza sull'attuazione della stessa legge, nonché sugli accordi internazionali e sulla restante legislazione in tema di immigrazione e asilo. In base al dettato del medesimo articolo il Governo deve presentare una relazione annuale al Comitato su tali materie e il Comitato riferisce annualmente alle Camere sulla propria attività.

La successiva legge 30 giugno 2009, n. 85, in materia di adesione dell'Italia al Trattato di Prüm, relativo all'approfondimento della cooperazione transfrontaliera, in particolare allo scopo di contrastare il terrorismo, la criminalità transfrontaliera e la migrazione illegale, concluso il 27 maggio 2005, ha previsto infine all'articolo 30 che il Ministro dell'interno informi annualmente il Comitato sullo stato di attuazione delle previsioni del Trattato, sulle azioni intraprese e sugli accordi conclusi, con specifico riferimento a quelli attuativi di cui all'articolo 44 dello stesso Trattato. E' da ultimo pervenuta la "Relazione sull'attività della Banca dati nazionale del DNA e del laboratorio centrale nell'ambito delle previsioni di cui al Trattato di Prum" Doc. CCXXXV-bis n. 1, annuncio del 6 agosto 2012, che attua anche la previsione di cui all'art. 19, co. 1, della legge n. 85 del 2009.

Le modifiche all'acquis di Schengen sono state successivamente oggetto di atti tipici dell'ordinamento UE (decisioni, regolamenti, direttive). Nel 2006 il Regolamento (CE) n. 562/2006 del 15 marzo 2006 ha istituito un codice comunitario relativo al regime di attraversamento delle frontiere da parte delle persone, cosiddetto codice frontiere Schengen, relativo al regime di attraversamento delle frontiere da parte delle persone. Di conseguenza, le competenze del Comitato relative all'attuazione dell'Accordo di Schengen sono state sostanzialmente ridefinite.

PARLIAMENTARY COMMITTEE FOR OVERSIGHT OF THE ENFORCEMENT OF THE SCHENGEN AGREEMENT, OVERSIGHT OF EUROPOL ACTIVITIES, AND THE CONTROL AND OVERSIGHT OF IMMIGRATION AFFAIRS

"The effectiveness of the Schengen Area in the light of the new security requirements in Europe"

MEETING OF THE REPRESENTATIVES OF COMMITTEES RESPONSIBLE FOR MATTERS RELATED TO THE SCHENGEN AREA AND IMMIGRATION OF NATIONAL PARLIAMENTS OF EU MEMBER STATES AND SCHENGEN MEMBER STATES

Rome, Palazzo San Macuto, Friday 11 December 2015

DOCUMENTATION

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DOCUMENTATION

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The Schengen acquis - Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders

Official Journal L 239 , 22/09/2000 P. 0013 - 0018

AGREEMENT

between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders

The Governments of the KINGDOM OF BELGIUM, the FEDERAL REPUBLIC OF GERMANY, the FRENCH REPUBLIC, the GRAND DUCHY OF LUXEMBOURG and the KINGDOM OF THE NETHERLANDS,

hereinafter referred to as "the Parties",

AWARE that the ever closer union of the peoples of the Member States of the European Communities should find its expression in the freedom to cross internal borders for all nationals of the Member States and in the free movement of goods and services,

ANXIOUS to strengthen the solidarity between their peoples by removing the obstacles to free movement at the common borders between the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic,

CONSIDERING the progress already achieved within the European Communities with a view to ensuring the free movement of persons, goods and services,

PROMPTED by the resolve to achieve the abolition of checks at their common borders on the movement of nationals of the Member States of the European Communities and to facilitate the movement of goods and services at those borders,

CONSIDERING that application of this Agreement may require legislative measures which will have to be submitted to the parliaments of the Signatory States in accordance with their constitutions,

HAVING REGARD to the statement by the Fontainebleau European Council on 25 and 26 June 1984 on the abolition of police and customs formalities for people and goods crossing intra-Community frontiers,

HAVING REGARD to the Agreement concluded at Saarbrücken on 13 July 1984 between the Federal Republic of Germany and the French Republic,

HAVING REGARD to the Conclusions adopted on 31 May 1984 following the meeting of the Transport Ministers of the Benelux States and the Federal Republic of Germany at Neustadt an der Aisch,

HAVING REGARD to the Memorandum of the Governments of the Benelux Economic Union of 12 December 1984 forwarded to the Governments of the Federal Republic of Germany and the French Republic,

HAVE AGREED AS FOLLOWS:

TITLE I

MEASURES APPLICABLE IN THE SHORT TERM

Article 1

As soon as this Agreement enters into force and until all checks are abolished completely, the formalities for nationals of the Member States of the European Communities at the common borders between the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic shall be carried out in accordance with the conditions laid down below.

Article 2

With regard to the movement of persons, from 15 June 1985 the police and customs authorities shall as a general rule carry out simple visual surveillance of private vehicles crossing the common border at reduced speed, without requiring such vehicles to stop.

However, they may carry out more thorough controls by means of spot checks. These shall be performed where possible off the main road, so as not to interrupt the flow of other vehicles crossing the border.

Article 3

To facilitate visual surveillance, nationals of the Member States of the European Communities wishing to cross the common border in a motor vehicle may affix to the windscreen a green disc measuring at least eight centimetres in diameter. This disc shall indicate that they have complied with border police rules, are carrying only goods permitted under the duty-free arrangements and have complied with exchange regulations.

Article 4

The Parties shall endeavour to keep to a minimum the time spent at common borders in connection with checks on the carriage of passengers by road for hire or reward.

The Parties shall seek solutions enabling them by 1 January 1986 to waive systematic checks at their common borders on passenger waybills and licences for the carriage of passengers by road for hire or reward.

Article 5

By 1 January 1986 common checks shall be put in place at adjacent national control posts in so far as that is not already the case and in so far as physical conditions so permit. Consideration shall subsequently be given to the possibility of introducing common checks at other border crossing points, taking account of local conditions.

Article 6

Without prejudice to the application of more favourable arrangements between the Parties, the latter shall take the measures required to facilitate the movement of nationals of the Member States of the European Communities resident in the local administrative areas along their common borders with a view to allowing them to cross those borders at places other than authorised crossing points and outside checkpoint opening hours.

The persons concerned may benefit from these advantages provided that they transport only goods permitted under the duty-free arrangements and comply with exchange regulations.

Article 7

The Parties shall endeavour to approximate their visa policies as soon as possible in order to avoid the adverse consequences in the field of immigration and security that may result from easing checks at the common borders. They shall take, if possible by 1 January 1986, the necessary steps in order to apply their procedures for the issue of visas and admission to their territories, taking into account the need to ensure the protection of the entire territory of the five States against illegal immigration and activities which could jeopardise security.

Article 8

With a view to easing checks at their common borders and taking into account the significant differences in the laws of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, the Parties undertake to combat vigorously illicit drug trafficking on their territories and to coordinate their action effectively in this area.

Article 9

The Parties shall reinforce cooperation between their customs and police authorities, notably in combating crime, particularly illicit trafficking in narcotic drugs and arms, the unauthorised entry and residence of persons, customs and tax fraud and smuggling. To that end and in accordance with their national laws, the Parties shall endeavour to improve the exchange of information and to reinforce that exchange where information which could be useful to the other Parties in combating crime is concerned.

Within the framework of their national laws the Parties shall reinforce mutual assistance in respect of unauthorised movements of capital.

Article 10

With a view to ensuring the cooperation provided for in Articles 6 to 9, meetings between the Parties' competent authorities shall be held at regular intervals.

Article 11

With regard to the cross-border carriage of goods by road, the Parties shall waive, as from 1 July 1985, systematic performance of the following checks at their common borders:

- control of driving and rest periods (Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonisation of certain social legislation relating to roard transport and AETR),

- control of the weights and dimensions of commercial vehicles; this provision shall not prevent the introduction of automatic weighing systems for spot checks on weight,

- controls on the vehicles' technical state.

Measures shall be taken to avoid checks being duplicated within the territories of the Parties.

Article 12

From 1 July 1985 checks on documents detailing transport operations not carried out under licence or quota pursuant to Community or bilateral rules shall be replaced at the common borders by spot checks. Vehicles carrying out transport operations under such arrangements shall display a visual symbol to that effect when crossing the border.

The Parties' competent authorities shall determine the features of this symbol by common agreement.

Article 13

The Parties shall endeavour to harmonise by 1 January 1986 the systems applying among them to the licensing of commercial road transport with regard to cross-border traffic, with the aim of simplifying, easing and possibly replacing licences for journeys by licences for a period of time, with a visual check when vehicles cross common borders.

The procedures for converting licences for journeys into licences for periods of time shall be agreed on a bilateral basis, account being taken of the road haulage requirements in the different countries concerned.

Article 14

The Parties shall seek solutions to reduce the waiting times of rail transport at the common borders caused by the completion of border formalities.

Article 15

The Parties shall recommend to their respective rail companies:

- to adapt technical procedures in order to minimise stopping times at the common borders,

- to do their utmost to apply to certain types of carriage of goods by rail, to be defined by the rail companies, a special routing system whereby the common borders can be crossed rapidly without any appreciable stops (goods trains with reduced stopping times at borders).

Article 16

The Parties shall harmonise the opening dates and opening hours of customs posts for inland waterway traffic at the common borders.

TITLE II

MEASURES APPLICABLE IN THE LONG TERM

Article 17

With regard to the movement of persons, the Parties shall endeavour to abolish checks at common borders and transfer them to their external borders. To that end they shall endeavour first to harmonise, where necessary, the laws, regulations and administrative provisions concerning the prohibitions and restrictions on which the checks are based and to take complementary measures to safeguard internal security and prevent illegal immigration by nationals of States that are not members of the European Communities.

Article 18

The Parties shall open discussions, in particular on the following matters, account being taken of the results of the short-term measures:

(a) drawing up arrangements for police cooperation on crime prevention and investigation;

(b) examining any difficulties that may arise in applying agreements on international judicial assistance and extradition, in order to determine the most appropriate solutions for improving cooperation between the Parties in those fields;

(c) seeking means to combat crime jointly, inter alia, by studying the possibility of introducing a right of hot pursuit for police officers, taking into account existing means of communication and international judicial assistance.

Article 19

The Parties shall seek to harmonise laws and regulations, in particular on:

- narcotic drugs,

- arms and explosives,

- the registration of travellers in hotels.

Article 20

The Parties shall endeavour to harmonise their visa policies and the conditions for entry to their territories. In so far as is necessary, they shall also prepare the harmonisation of their rules governing certain aspects of the law on aliens in regard to nationals of States that are not members of the European Communities.

Article 21

The Parties shall take common initiatives within the European Communities:

(a) to achieve an increase in the duty-free allowances granted to travellers;

(b) in the context of Community allowances to remove any remaining restrictions on entry to the Member States of goods possession of which is not prohibited for their nationals.

The Parties shall take initiatives within the European Communities so that VAT on tourist transport services within the European Communities is collected in the country of depature on a harmonised basis.

Article 22

The Parties shall endeavour both among themselves and within the European Communities:

- to increase the duty-free allowance for fuel in order to bring it into line with the normal contents of bus and coach fuel tanks (600 litres),

- to approximate the tax rates on diesel fuel and to increase the duty-free allowances for the normal contents of lorry fuel tanks.

Article 23

In the field of goods transport the Parties shall also endeavour to reduce stopping times and the number of stopping points at adjacent national control posts.

Article 24

With regard to the movement of goods, the Parties shall seek means of transferring the checks currently carried out at the common borders to the external borders or to within their own territories.

To that end they shall take, where necessary, common initiatives among themselves and within the European Communities to harmonise the provisions on which checks on goods at the common borders are based. They shall ensure that these measures do not adversely affect the necessary protection of the health of humans, animals and plants.

Article 25

The Parties shall develop their cooperation with a view to facilitating customs clearance of goods crossing a common border, through a systematic, automatic exchange of the necessary data collected by means of the single document.

Article 26

The Parties shall examine how indirect taxes (VAT and excise duties) may be harmonised in the framework of the European Communities. To that end they shall support the initiatives undertaken by the European Communities.

Article 27

The Parties shall examine whether, on a reciprocal basis, the limits on the duty-free allowances granted at the common borders to frontier-zone residents, as authorised under Community law, may be abolished.

Article 28

Before the conclusion of any bilateral or multilateral arrangements similar to this Agreement with States that are not parties thereto, the Parties shall consult among themselves.

Article 29

This Agreement shall also apply to Berlin, unless a declaration to the contrary is made by the Government of the Federal Republic of Germany to the Governments of the States of the Benelux Economic Union and the Government of the French Republic within three months of entry into force of this Agreement.

Article 30

The measures provided for in this Agreement which are not applicable as soon as it enters into force shall be applied by 1 January 1986 as regards the measures provided for in Title I and if possible by 1 January 1990 as regards the measures provided for in Title II, unless other deadlines are laid down in this Agreement.

Article 31

This Agreement shall apply subject to the provisions of Articles 5, 6 and 8 to 16 of the Agreement concluded at Saarbrücken on 13 July 1984 between the Federal Republic of Germany and the French Republic.

Article 32

This Agreement shall be signed without being subject to ratification or approval, or subject to ratification or approval, followed by ratification or approval.

This Agreement shall apply provisionally from the day following that of its signature.

This Agreement shall enter into force 30 days after deposit of the last instrument of ratification or approval.

Article 33

This Agreement shall be deposited with the Government of the Grand Duchy of Luxembourg, which shall transmit a certified copy to each of the Governments of the other Signatory States.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Übereinkommen gesetzt./En foi de quoi, les représentants des Gouvernements dûment habilités à cet effet ont signé le présent accord./Ten blijke waarvan de daartoe naar behoren gemachtigde vertegenwoordigers van de Regeringen dit Akkoord hebben ondertekend.

Geschehen zu Schengen (Großherzogtum Luxemburg) am vierzehnten Juni neunzehnhundertfünfundachtzig,

in deutscher, französischer und niederländischer Sprache abgefaßt, wobei jeder Wortlaut gleichermaßen verbindlich ist./Fait à Schengen (Grand-Duché de Luxembourg), le quatorze juin mil neuf cent quatre-vingt-cinq,

les textes du présent accord en langues allemande, française et néerlandaise, faisant également foi./Gedaan te Schengen (Groothertogdom Luxemburg), de veertiende juni negentienhonderdvijfentachtig,

zijnde te teksten van dit Akkoord in de Duitse, de Franse en de Nederlandse taal gelijkelijk authentiek.

Pour le Gouvernement du Royaume de Belgique/Voor de Regering van het Koninkrijk België

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P. de Keersmaeker

Secrétaire d'État aux Affaires européennes/Staatssecretaris voor Europese Zaken

Für die Regierung der Bundesrepublik Deutschland

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Prof. Dr. W. Schreckenberger

Staatssekretär im Bundeskanzleramt

Pour le Gouvernement de la République française

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C. Lalumière

Secrétaire d'État aux Affaires européennes

Pour le Gouvernement du Grand-Duché de Luxembourg

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R. Goebbels

Secrétaire d'État aux Affaires étrangères

Voor de Regering van het Koninkrijk der Nederlanden

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W. F. van Eekelen

Staatssecretaris van Buitenlandse Zaken

42000A0922(02)

The Schengen acquis - Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders

Official Journal L 239 , 22/09/2000 P. 0019 - 0062

CONVENTION

IMPLEMENTING THE SCHENGEN AGREEMENT

of 14 June 1985

between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders

The KINGDOM OF BELGIUM, the FEDERAL REPUBLIC OF GERMANY, the FRENCH REPUBLIC, the GRAND DUCHY OF LUXEMBOURG and the KINGDOM OF THE NETHERLANDS, hereinafter referred to as "the Contracting Parties",

TAKING as their basis the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders,

HAVING DECIDED to fulfil the resolve expressed in that Agreement to abolish checks at their common borders on the movement of persons and facilitate the transport and movement of goods at those borders,

WHEREAS the Treaty establishing the European Communities, supplemented by the Single European Act, provides that the internal market shall comprise an area without internal frontiers,

WHEREAS the aim pursued by the Contracting Parties is in keeping with that objective, without prejudice to the measures to be taken to implement the provisions of the Treaty,

WHEREAS the fulfilment of that resolve requires a series of appropriate measures and close cooperation between the Contracting Parties,

HAVE AGREED AS FOLLOWS:

TITLE I

DEFINITIONS

Article 1

For the purposes of this Convention:

internal borders: shall mean the common land borders of the Contracting Parties, their airports for internal flights and their sea ports for regular ferry connections exclusively from or to other ports within the territories of the Contracting Parties and not calling at any ports outside those territories;

external borders: shall mean the Contracting Parties' land and sea borders and their airports and sea ports, provided that they are not internal borders;

internal flight: shall mean any flight exclusively to or from the territories of the Contracting Parties and not landing in the territory of a third State;

third State: shall mean any State other than the Contracting Parties;

alien: shall mean any person other than a national of a Member State of the European Communities;

alien for whom an alert has been issued for the purposes of refusing entry: shall mean an alien for whom an alert has been introduced into the Schengen Information System in accordance with Article 96 with a view to that person being refused entry;

border crossing point: shall mean any crossing point authorised by the competent authorities for crossing external borders;

border check: shall mean a check carried out at a border in response exclusively to an intention to cross that border, regardless of any other consideration;

carrier: shall mean any natural or legal person whose occupation it is to provide passenger transport by air, sea or land;

residence permit: shall mean an authorisation of whatever type issued by a Contracting Party which grants right of residence within its territory. This definition shall not include temporary permission to reside in the territory of a Contracting Party for the purposes of processing an application for asylum or a residence permit;

application for asylum: shall mean any application submitted in writing, orally or otherwise by an alien at an external border or within the territory of a Contracting Party with a view to obtaining recognition as a refugee in accordance with the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, and as such obtaining the right of residence;

asylum seeker: shall mean any alien who has lodged an application for asylum within the meaning of this Convention and in respect of which a final decision has not yet been taken;

processing applications for asylum: shall mean all the procedures for examining and taking a decision on applications for asylum, including measures taken under a final decision thereon, with the exception of the determination of the Contracting Party responsible for processing applications for asylum pursuant to this Convention.

TITLE II

ABOLITION OF CHECKS AT INTERNAL BORDERS AND MOVEMENT OF PERSONS

CHAPTER 1

CROSSING INTERNAL BORDERS

Article 2

1. Internal borders may be crossed at any point without any checks on persons being carried out.

2. However, where public policy or national security so require a Contracting Party may, after consulting the other Contracting Parties, decide that for a limited period national border checks appropriate to the situation shall be carried out at internal borders. If public policy or national security require immediate action, the Contracting Party concerned shall take the necessary measures and at the earliest opportunity shall inform the other Contracting Parties thereof.

3. The abolition of checks on persons at internal borders shall not affect the provisions laid down in Article 22, or the exercise of police powers throughout a Contracting Party's territory by the competent authorities under that Party's law, or the requirement to hold, carry and produce permits and documents provided for in that Party's law.

4. Checks on goods shall be carried out in accordance with the relevant provisions of this Convention.

CHAPTER 2

CROSSING EXTERNAL BORDERS

Article 3

1. External borders may in principle only be crossed at border crossing points and during the fixed opening hours. More detailed provisions, exceptions and arrangements for local border traffic, and rules governing special categories of maritime traffic such as pleasure boating and coastal fishing, shall be adopted by the Executive Committee.

2. The Contracting Parties undertake to introduce penalties for the unauthorised crossing of external borders at places other than crossing points or at times other than the fixed opening hours.

Article 4

1. The Contracting Parties shall ensure that, as from 1993, passengers on flights from third States who transfer onto internal flights will be subject to an entry check, together with their hand baggage, at the airport at which the external flight arrives. Passengers on internal flights who transfer onto flights bound for third States will be subject to a departure check, together with their hand baggage, at the airport from which the external flight departs.

2. The Contracting Parties shall take the necessary measures to ensure that checks are carried out in accordance with paragraph 1.

3. Neither paragraph 1 nor paragraph 2 shall affect checks on registered baggage; such checks shall be carried out either in the airport of final destination or in the airport of initial departure.

4. Until the date laid down in paragraph 1, airports shall, by way of derogation from the definition of internal borders, be considered as external borders for internal flights.

Article 5

1. For stays not exceeding three months, aliens fulfilling the following conditions may be granted entry into the territories of the Contracting Parties:

(a) that the aliens possess a valid document or documents, as defined by the Executive Committee, authorising them to cross the border;

(b) that the aliens are in possession of a valid visa if required;

(c) that the aliens produce, if necessary, documents justifying the purpose and conditions of the intended stay and that they have sufficient means of subsistence, both for the period of the intended stay and for the return to their country of origin or transit to a third State into which they are certain to be admitted, or are in a position to acquire such means lawfully;

(d) that the aliens shall not be persons for whom an alert has been issued for the purposes of refusing entry;

(e) that the aliens shall not be considered to be a threat to public policy, national security or the international relations of any of the Contracting Parties.

2. An alien who does not fulfil all the above conditions must be refused entry into the territories of the Contracting Parties unless a Contracting Party considers it necessary to derogate from that principle on humanitarian grounds, on grounds of national interest or because of international obligations. In such cases authorisation to enter will be restricted to the territory of the Contracting Party concerned, which must inform the other Contracting Parties accordingly.

These rules shall not preclude the application of special provisions concerning the right of asylum or of the provisions laid down in Article 18.

3. Aliens who hold residence permits or re-entry visas issued by one of the Contracting Parties or, where required, both documents, shall be authorised entry for transit purposes, unless their names are on the national list of alerts of the Contracting Party whose external borders they are seeking to cross.

Article 6

1. Cross-border movement at external borders shall be subject to checks by the competent authorities. Checks shall be carried out for the Contracting Parties' territories, in accordance with uniform principles, within the scope of national powers and national law and taking account of the interests of all Contracting Parties.

2. The uniform principles referred to in paragraph 1 shall be as follows:

(a) Checks on persons shall include not only the verification of travel documents and the other conditions governing entry, residence, work and exit but also checks to detect and prevent threats to the national security and public policy of the Contracting Parties. Such checks shall also be carried out on vehicles and objects in the possession of persons crossing the border. They shall be carried out by each Contracting Party in accordance with its national law, in particular where searches are involved.

(b) All persons shall undergo at least one such check in order to establish their identities on the basis of the production or presentation of their travel documents.

(c) On entry, aliens shall be subject to a thorough check, as defined in (a).

(d) On exit, the checks shall be carried out as required in the interest of all Contracting Parties under the law on aliens in order to detect and prevent threats to the national security and public policy of the Contracting Parties. Such checks shall always be carried out on aliens.

(e) If in certain circumstances such checks cannot be carried out, priorities must be set. In that case, entry checks shall as a rule take priority over exit checks.

3. The competent authorities shall use mobile units to carry out external border surveillance between crossing points; the same shall apply to border crossing points outside normal opening hours. This surveillance shall be carried out in such a way as to discourage people from circumventing the checks at crossing points. The surveillance procedures shall, where appropriate, be established by the Executive Committee.

4. The Contracting Parties undertake to deploy enough suitably qualified officers to carry out checks and surveillance along external borders.

5. An equal degree of control shall be exercised at external borders.

Article 7

The Contracting Parties shall assist each other and shall maintain constant, close cooperation with a view to the effective implementation of checks and surveillance. They shall, in particular, exchange all relevant, important information, with the exception of personal data, unless otherwise provided for in this Convention. They shall as far as possible harmonise the instructions given to the authorities responsible for checks and shall promote standard basic and further training of officers manning checkpoints. Such cooperation may take the form of an exchange of liaison officers.

Article 8

The Executive Committee shall take the necessary decisions on the practical procedures for carrying out border checks and surveillance.

CHAPTER 3

VISAS

Section 1

Short-stay visas

Article 9

1. The Contracting Parties undertake to adopt a common policy on the movement of persons and, in particular, on the arrangements for visas. They shall assist each other to that end. The Contracting Parties undertake to pursue through common consent the harmonisation of their policies on visas.

2. The visa arrangements relating to third States whose nationals are subject to visa arrangements common to all the Contracting Parties at the time of signing this Convention or at a later date may be amended only by common consent of all the Contracting Parties. A Contracting Party may in exceptional cases derogate from the common visa arrangements relating to a third State where overriding reasons of national policy require an urgent decision. It shall first consult the other Contracting Parties and, in its decision, take account of their interests and the consequences of that decision.

Article 10

1. A uniform visa valid for the entire territory of the Contracting Parties shall be introduced. This visa, the period of validity of which shall be determined by Article 11, may be issued for visits not exceeding three months.

2. Pending the introduction of such a visa, the Contracting Parties shall recognise their respective national visas, provided that these are issued in accordance with common conditions and criteria determined in the context of the relevant provisions of this Chapter.

3. By way of derogation from paragraphs 1 and 2, each Contracting Party shall reserve the right to restrict the territorial validity of the visa in accordance with common arrangements determined in the context of the relevant provisions of this chapter.

Article 11

1. The visa provided for in Article 10 may be:

(a) a travel visa valid for one or more entries, provided that neither the length of a continuous visit nor the total length of successive visits exceeds three months in any half-year, from the date of first entry;

(b) a transit visa authorising its holder to pass through the territories of the Contracting Parties once, twice or exceptionally several times en route to the territory of a third State, provided that no transit shall exceed five days.

2. Paragraph 1 shall not preclude a Contracting Party from issuing a new visa, the validity of which is limited to its own territory, within the half-year in question if necessary.

Article 12

1. The uniform visa provided for in Article 10(1) shall be issued by the diplomatic and consular authorities of the Contracting Parties and, where appropriate, by the authorities of the Contracting Parties designated under Article 17.

2. The Contracting Party responsible for issuing such a visa shall in principle be that of the main destination. If this cannot be determined, the visa shall in principle be issued by the diplomatic or consular post of the Contracting Party of first entry.

3. The Executive Committee shall specify the implementing arrangements and, in particular, the criteria for determining the main destination.

Article 13

1. No visa shall be affixed to a travel document that has expired.

2. The period of validity of a travel document must exceed that of the visa, taking account of the period of use of the visa. It must enable aliens to return to their country of origin or to enter a third country.

Article 14

1. No visa shall be affixed to a travel document if that travel document is not valid for any of the Contracting Parties. If a travel document is only valid for one Contracting Party or for a number of Contracting Parties, the visa to be affixed shall be limited to the Contracting Party or Parties in question.

2. If a travel document is not recognised as valid by one or more of the Contracting Parties, an authorisation valid as a visa may be issued in place of a visa.

Article 15

In principle the visas referred to in Article 10 may be issued only if an alien fulfils the entry conditions laid down in Article 5(1)(a), (c), (d) and (e).

Article 16

If a Contracting Party considers it necessary to derogate on one of the grounds listed in Article 5(2) from the principle laid down in Article 15, by issuing a visa to an alien who does not fulfil all the entry conditions referred to in Article 5(1), the validity of this visa shall be restricted to the territory of that Contracting Party, which must inform the other Contracting Parties accordingly.

Article 17

1. The Executive Committee shall adopt common rules for the examination of visa applications, shall ensure their correct implementation and shall adapt them to new situations and circumstances.

2. The Executive Committee shall also specify the cases in which the issue of a visa shall be subject to consultation with the central authority of the Contracting Party with which the application is lodged and, where appropriate, the central authorities of other Contracting Parties.

3. The Executive Committee shall also take the necessary decisions on the following:

(a) the travel documents to which a visa may be affixed;

(b) the visa-issuing authorities;

(c) the conditions governing the issue of visas at borders;

(d) the form, content, and period of validity of visas and the fees to be charged for their issue;

(e) the conditions for the extension and refusal of the visas referred to in (c) and (d), in accordance with the interests of all the Contracting Parties;

(f) the procedures for limiting the territorial validity of visas;

(g) the principles governing the drawing up of a common list of aliens for whom an alert has been issued for the purposes of refusing entry, without prejudice to Article 96.

Section 2

Long-stay visas

Article 18

Visas for stays exceeding three months shall be national visas issued by one of the Contracting Parties in accordance with its national law. Such visas shall enable their holders to transit through the territories of the other Contracting Parties in order to reach the territory of the Contracting Party which issued the visa, unless they fail to fulfil the entry conditions referred to in Article 5(1)(a), (d) and (e) or they are on the national list of alerts of the Contracting Party through the territory of which they seek to transit.

CHAPTER 4

CONDITIONS GOVERNING THE MOVEMENT OF ALIENS

Article 19

1. Aliens who hold uniform visas and who have legally entered the territory of a Contracting Party may move freely within the territories of all the Contracting Parties during the period of validity of their visas, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e).

2. Pending the introduction of a uniform visa, aliens who hold visas issued by one of the Contracting Parties and who have legally entered the territory of one Contracting Party may move freely within the territories of all the Contracting Parties during the period of validity of their visas up to a maximum of three months from the date of first entry, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e).

3. Paragraphs 1 and 2 shall not apply to visas whose validity is subject to territorial limitation in accordance with Chapter 3 of this Title.

4. This Article shall apply without prejudice to Article 22.

Article 20

1. Aliens not subject to a visa requirement may move freely within the territories of the Contracting Parties for a maximum period of three months during the six months following the date of first entry, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e).

2. Paragraph 1 shall not affect each Contracting Party's right to extend beyond three months an alien's stay in its territory in exceptional circumstances or in accordance with a bilateral agreement concluded before the entry into force of this Convention.

3. This Article shall apply without prejudice to Article 22.

Article 21

1. Aliens who hold valid residence permits issued by one of the Contracting Parties may, on the basis of that permit and a valid travel document, move freely for up to three months within the territories of the other Contracting Parties, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c) and (e) and are not on the national list of alerts of the Contracting Party concerned.

2. Paragraph 1 shall also apply to aliens who hold provisional residence permits issued by one of the Contracting Parties and travel documents issued by that Contracting Party.

3. The Contracting Parties shall send the Executive Committee a list of the documents that they issue as valid travel documents, residence permits or provisional residence permits within the meaning of this Article.

4. This Article shall apply without prejudice to Article 22.

Article 22

1. Aliens who have legally entered the territory of one of the Contracting Parties shall be obliged to report, in accordance with the conditions laid down by each Contracting Party, to the competent authorities of the Contracting Party whose territory they enter. Such aliens may report either on entry or within three working days of entry, at the discretion of the Contracting Party whose territory they enter.

2. Aliens resident in the territory of one of the Contracting Parties who enter the territory of another Contracting Party shall be required to report to the authorities, as laid down in paragraph 1.

3. Each Contracting Party shall lay down its exemptions from paragraphs 1 and 2 and shall communicate them to the Executive Committee.

Article 23

1. Aliens who do not fulfil or who no longer fulfil the short-stay conditions applicable within the territory of a Contracting Party shall normally be required to leave the territories of the Contracting Parties immediately.

2. Aliens who hold valid residence permits or provisional residence permits issued by another Contracting Party shall be required to go to the territory of that Contracting Party immediately.

3. Where such aliens have not left voluntarily or where it may be assumed that they will not do so or where their immediate departure is required for reasons of national security or public policy, they must be expelled from the territory of the Contracting Party in which they were apprehended, in accordance with the national law of that Contracting Party. If under that law expulsion is not authorised, the Contracting Party concerned may allow the persons concerned to remain within its territory.

4. Such aliens may be expelled from the territory of that Party to their countries of origin or any other State to which they may be admitted, in particular under the relevant provisions of the readmission agreements concluded by the Contracting Parties.

5. Paragraph 4 shall not preclude the application of national provisions on the right of asylum, the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, paragraph 2 of this Article or Article 33(1) of this Convention.

Article 24

Subject to the Executive Committee's definition of the appropriate criteria and practical arrangements, the Contracting Parties shall compensate each other for any financial imbalances which may result from the obligation to expel as provided for in Article 23 where such expulsion cannot be effected at the alien's expense.

CHAPTER 5

RESIDENCE PERMITS AND ALERTS FOR THE PURPOSES OF REFUSING ENTRY

Article 25

1. Where a Contracting Party considers issuing a residence permit to an alien for whom an alert has been issued for the purposes of refusing entry, it shall first consult the Contracting Party issuing the alert and shall take account of its interests; the residence permit shall be issued for substantive reasons only, notably on humanitarian grounds or by reason of international commitments.

If a residence permit is issued, the Contracting Party issuing the alert shall withdraw the alert but may put the alien concerned on its national list of alerts.

2. Where it emerges that an alert for the purposes of refusing entry has been issued for an alien who holds a valid residence permit issued by one of the Contracting Parties, the Contracting Party issuing the alert shall consult the Party which issued the residence permit in order to determine whether there are sufficient reasons for withdrawing the residence permit.

If the residence permit is not withdrawn, the Contracting Party issuing the alert shall withdraw the alert but may nevertheless put the alien in question on its national list of alerts.

CHAPTER 6

ACCOMPANYING MEASURES

Article 26

1. The Contracting Parties undertake, subject to the obligations resulting from their accession to the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, to incorporate the following rules into their national law:

(a) If aliens are refused entry into the territory of one of the Contracting Parties, the carrier which brought them to the external border by air, sea or land shall be obliged immediately to assume responsibility for them again. At the request of the border surveillance authorities the carrier shall be obliged to return the aliens to the third State from which they were transported or to the third State which issued the travel document on which they travelled or to any other third State to which they are certain to be admitted.

(b) The carrier shall be obliged to take all the necessary measures to ensure that an alien carried by air or sea is in possession of the travel documents required for entry into the territories of the Contracting Parties.

2. The Contracting Parties undertake, subject to the obligations resulting from their accession to the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, and in accordance with their constitutional law, to impose penalties on carriers which transport aliens who do not possess the necessary travel documents by air or sea from a Third State to their territories.

3. Paragraphs 1(b) and 2 shall also apply to international carriers transporting groups overland by coach, with the exception of border traffic.

Article 27

1. The Contracting Parties undertake to impose appropriate penalties on any person who, for financial gain, assists or tries to assist an alien to enter or reside within the territory of one of the Contracting Parties in breach of that Contracting Party's laws on the entry and residence of aliens.

2. If a Contracting Party is informed of actions as referred to in paragraph 1 which are in breach of the law of another Contracting Party, it shall inform the latter accordingly.

3. Any Contracting Party which requests another Contracting Party to prosecute, on the grounds of a breach of its own laws, actions as referred to in paragraph 1 must specify, by means of an official report or a certificate from the competent authorities, the provisions of law that have been breached.

CHAPTER 7

RESPONSIBILITY FOR PROCESSING APPLICATIONS FOR ASYLUM

Article 28

The Contracting Parties reaffirm their obligations under the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, with no geographic restriction on the scope of those instruments, and their commitment to cooperating with the United Nations High Commissioner for Refugees in the implementation of those instruments.

Article 29

1. The Contracting Parties undertake to process any application for asylum lodged by an alien within any one of their territories.

2. This obligation shall not bind a Contracting Party to authorising all asylum seekers to enter or remain within its territory.

Every Contracting Party shall retain the right to refuse entry or to expel asylum seekers to a third State on the basis of its national provisions and in accordance with its international commitments.

3. Regardless of the Contracting Party with which an alien lodges an application for asylum, only one Contracting Party shall be responsible for processing that application. This shall be determined on the basis of the criteria laid down in Article 30.

4. Notwithstanding paragraph 3, every Contracting Party shall retain the right, for special reasons connected in particular with national law, to process an application for asylum even if, under this Convention, the responsibility for so doing lies with another Contracting Party.

Article 30

1. The Contracting Party responsible for processing an application for asylum shall be determined as follows:

(a) If a Contracting Party has issued an asylum seeker with a visa, of whatever type, or a residence permit, it shall be responsible for processing the application. If the visa was issued on the authorisation of another Contracting Party, the Contracting Party which gave the authorisation shall be responsible.

(b) If two or more Contracting Parties have issued an asylum seeker with a visa, of whatever type, or a residence permit, the Contracting Party responsible shall be the one which issued the visa or the residence permit that will expire last.

(c) As long as the asylum seeker has not left the territories of the Contracting Parties, the responsibility defined in (a) and (b) shall remain even if the period of validity of the visa, of whatever type, or of the residence permit has expired. If the asylum seeker has left the territories of the Contracting Parties after the visa or the residence permit has been issued, these documents shall be the basis for the responsibility as defined in (a) and (b), unless they have expired in the meantime under national provisions.

(d) If the Contracting Parties exempt the asylum seeker from the visa requirement, the Contracting Party across whose external borders the asylum seeker entered the territories of the Contracting Parties shall be responsible.

Until the harmonisation of visa policies is fully achieved, and if the asylum seeker is exempted from the visa requirement by some Contracting Parties only, the Contracting Party across whose external borders the asylum seeker, through exemption from the visa requirement, has entered the territories of the Contracting Parties shall be responsible, subject to (a), (b) and (c).

If the application for asylum is lodged with a Contracting Party which has issued a transit visa to the asylum seeker - whether the asylum seeker has passed through passport control or not - and if the transit visa was issued after the country of transit had ascertained from the consular or diplomatic authorities of the Contracting Party of destination that the asylum seeker fulfilled the entry conditions for the Contracting Party of destination, the Contracting Party of destination shall be responsible for processing the application.

(e) If the asylum seeker has entered the territory of the Contracting Parties without being in possession of one or more documents, to be defined by the Executive Committee, authorising the crossing of the border, the Contracting Party across whose external borders the asylum seeker entered the territories of the Contracting Parties shall be responsible.

(f) If an alien whose application for asylum is already being processed by one of the Contracting Parties lodges a new application, the Contracting Party responsible shall be the one processing the first application.

(g) If an alien on whose previous application for asylum a Contracting Party has already taken a final decision lodges a new application, the Contracting Party responsible shall be the one that processed the previous application unless the asylum seeker has left the territory of the Contracting Parties.

2. If a Contracting Party has undertaken to process an application for asylum in accordance with Article 29(4), the Contracting Party responsible under paragraph 1 of this Article shall be relieved of its obligations.

3. Where no Contracting Party responsible can be determined on the basis of the criteria laid down in paragraphs 1 and 2, the Contracting Party with which the application for asylum was lodged shall be responsible.

Article 31

1. The Contracting Parties shall endeavour to determine as quickly as possible which Party is responsible for processing an application for asylum.

2. If an application for asylum is lodged with a Contracting Party which is not responsible under Article 30 by an alien residing within its territory, that Contracting Party may request the Contracting Party responsible to take charge of the asylum seeker in order to process the application for asylum.

3. The Contracting Party responsible shall be obliged to take charge of the asylum seeker referred to in paragraph 2 if the request is made within six months of the application for asylum being lodged. If the request is not made within that time, the Contracting Party with whom the application for asylum was lodged shall be responsible for processing the application.

Article 32

The Contracting Party responsible for processing an application for asylum shall process it in accordance with its national law.

Article 33

1. If an asylum seeker is illegally within the territory of another Contracting Party while the asylum procedure is in progress, the Contracting Party responsible shall be obliged to take the asylum seeker back.

2. Paragraph 1 shall not apply where the other Contracting Party has issued an asylum seeker with a residence permit valid for one year or more. In that case, responsibility for processing the application shall be transferred to the other Contracting Party.

Article 34

1. The Contracting Party responsible shall be obliged to take back an alien whose application for asylum has been definitively rejected and who has entered the territory of another Contracting Party without being authorised to reside there.

2. Paragraph 1 shall not, however, apply where the Contracting Party responsible expelled the alien from the territories of the Contracting Parties.

Article 35

1. The Contracting Party which granted an alien the status of refugee and right of residence shall be obliged to take responsibility for processing any application for asylum made by a member of the alien's family provided that the persons concerned agree.

2. For the purposes of paragraph 1, a family member shall be the refugee's spouse or unmarried child who is less than 18 years old or, if the refugee is an unmarried child who is less than 18 years old, the refugee's father or mother.

Article 36

Any Contracting Party responsible for processing an application for asylum may, for humanitarian reasons, based in particular family or cultural grounds, ask another Contracting Party to assume that responsibility provided that the asylum seeker so desires. The Contracting Party to which such a request is made shall consider whether it can be granted.

Article 37

1. The competent authorities of the Contracting Parties shall at the earliest opportunity send each other details of:

(a) any new rules or measures adopted in the field of asylum law or the treatment of asylum seekers no later than their entry into force;

(b) statistical data on the monthly arrivals of asylum seekers, indicating the main countries of origin and decisions on applications for asylum where available;

(c) the emergence of, or significant increases in, certain categories of asylum seekers and any information available on this subject;

(d) any fundamental decisions in the field of asylum law.

2. The Contracting Parties shall also ensure close cooperation in gathering information on the situation in the asylum seekers' countries of origin with a view to a joint assessment.

3. Any instruction given by a Contracting Party concerning the confidential processing of the information that it communicates must be complied with by the other Contracting Parties.

Article 38

1. Every Contracting Party shall send every other Contracting Party at their request any information it has on an asylum seeker which is necessary for the purposes of:

- determining the Contracting Party responsible for processing the application for asylum,

- processing the application for asylum,

- implementing the obligations arising under this chapter.

2. Such information may concern only:

(a) identity (surname and forename, any previous names, nicknames or aliases, date and place of birth, present nationality and any previous nationalities of the asylum seeker and, where appropriate, of the asylum seeker's family members);

(b) identity and travel documents (references, periods of validity, dates of issue, issuing authorities, place of issue, etc.);

(c) any other details needed to establish the asylum seeker's identity;

(d) places of residence and routes travelled;

(e) residence permits or visas issued by a Contracting Party;

(f) the place where the application for asylum was lodged;

(g) where appropriate, the date any previous application for asylum was lodged, the date on which the present application was lodged, the stage reached in the procedure and the decision taken.

3. In addition, a Contracting Party may ask another Contracting Party to inform it of the grounds invoked by an asylum seeker in support of an application and, where appropriate, the grounds for the decision taken on the asylum seeker. The Contracting Party requested shall consider whether it can comply with such a request. In all events the communication of such information shall be subject to the asylum seeker's consent.

4. Information shall be exchanged at the request of a Contracting Party and may only be exchanged between the authorities designated by each Contracting Party, once the Executive Committee has been informed thereof.

5. The information exchanged may only be used for the purposes laid down in paragraph 1. Such information may only be communicated to the authorities and courts and tribunals responsible for:

- determining the Contracting Party responsible for processing the application for asylum,

- processing the application for asylum,

- implementing obligations arising under this chapter.

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

If it appears that a Contracting Party has supplied information that is inaccurate or should not have been forwarded, the recipient Contracting Parties shall be informed immediately thereof. They shall be obliged to correct such information or delete it.

7. Asylum seekers shall have the right to receive on request the information exchanged which concerns them as long as it remains available.

If they establish that such information is inaccurate or should not have been forwarded, they shall have the right to demand its correction or deletion. Corrections shall be made in accordance with paragraph 6.

8. Each Contracting Party concerned shall record the forwarding and receipt of information exchanged.

9. Information forwarded shall be held no longer than necessary for the purposes for which it was exchanged. The Contracting Party concerned shall assess in due course whether it is necessary for it to be held.

10. In any case, information thus forwarded shall enjoy at least the same protection as is provided for similar information in the law of the recipient Contracting Party.

11. If information is not processed automatically but is handled in some other form, each Contracting Party shall take the appropriate measures to ensure compliance with this Article by means of effective controls. If a Contracting Party has a body of the type referred to in paragraph 12, it may assign the control task to it.

12. If one or more Contracting Parties wishes to computerise all or part of the information referred to in paragraphs 2 and 3, such computerisation shall only be authorised if the Contracting Parties concerned have adopted laws applicable to such processing which implement the principles of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981 and if they have entrusted an appropriate national body with the independent monitoring of the processing and use of data forwarded pursuant to this Convention.

TITLE III

POLICE AND SECURITY

CHAPTER 1

POLICE COOPERATION

Article 39

1. The Contracting Parties undertake to ensure that their police authorities shall, in compliance with national law and within the scope of their powers, assist each other for the purposes of preventing and detecting criminal offences, in so far as national law does not stipulate that the request has to be made and channelled via the judicial authorities and provided that the request or the implementation thereof does not involve the application of measures of constraint by the requested Contracting Party. Where the requested police authorities do not have the power to deal with a request, they shall forward it to the competent authorities.

2. Written information provided by the requested Contracting Party under paragraph 1 may not be used by the requesting Contracting Party as evidence of the offence charged other than with the consent of the competent judicial authorities of the requested Contracting Party.

3. Requests for assistance referred to in paragraph 1 and the replies to such requests may be exchanged between the central bodies responsible in each Contracting Party for international police cooperation. Where the request cannot be made in good time using the above procedure, the police authorities of the requesting Contracting Party may address it directly to the competent authorities of the requested Party, which may reply directly. In such cases, the requesting police authority shall at the earliest opportunity inform the central body responsible for international police cooperation in the requested Contracting Party of its direct request.

4. In border areas, cooperation may be covered by arrangements between the competent Ministers of the Contracting Parties.

5. The provisions of this Article shall not preclude more detailed present or future bilateral agreements between Contracting Parties with a common border. The Contracting Parties shall inform each other of such agreements.

Article 40

1. Officers of one of the Contracting Parties who, as part of a criminal investigation, are keeping under surveillance in their country a person who is presumed to have participated in an extraditable criminal offence shall be authorised to continue their surveillance in the territory of another Contracting Party where the latter has authorised cross-border surveillance in response to a request for assistance made in advance. Conditions may be attached to the authorisation.

On request, the surveillance will be entrusted to officers of the Contracting Party in whose territory this is carried out.

The request for assistance referred to in the first subparagraph must be sent to an authority designated by each of the Contracting Parties and empowered to grant or to pass on the requested authorisation.

2. Where, for particularly urgent reasons, prior authorisation cannot be requested from the other Contracting Party, the officers carrying out the surveillance shall be authorised to continue beyond the border the surveillance of a person presumed to have committed criminal offences listed in paragraph 7, provided that the following conditions are met:

(a) the authority of the Contracting Party designated under paragraph 5, in whose territory the surveillance is to be continued, must be notified immediately, during the surveillance, that the border has been crossed;

(b) a request for assistance submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorisation shall be submitted immediately.

Surveillance shall cease as soon as the Contracting Party in whose territory it is taking place so requests, following the notification referred to in (a) or the request referred to in (b) or, where authorisation has not been obtained, five hours after the border was crossed.

3. The surveillance referred to in paragraphs 1 and 2 shall be carried out only under the following general conditions:

(a) The officers carrying out the surveillance must comply with the provisions of this Article and with the law of the Contracting Party in whose territory they are operating; they must obey the instructions of the competent local authorities.

(b) Except in the situations outlined in paragraph 2, the officers shall, during the surveillance, carry a document certifying that authorisation has been granted.

(c) The officers carrying out the surveillance must at all times be able to prove that they are acting in an official capacity.

(d) The officers carrying out the surveillance may carry their service weapons during the surveillance save where specifically otherwise decided by the requested Party; their use shall be prohibited save in cases of legitimate self-defence.

(e) Entry into private homes and places not accessible to the public shall be prohibited.

(f) The officers carrying out the surveillance may neither challenge nor arrest the person under surveillance.

(g) All operations shall be the subject of a report to the authorities of the Contracting Party in whose territory they took place; the officers carrying out the surveillance may be required to appear in person.

(h) The authorities of the Contracting Party from which the surveillance officers have come shall, when requested by the authorities of the Contracting Party in whose territory the surveillance took place, assist the enquiry subsequent to the operation in which they took part, including judicial proceedings.

4. The officers referred to in paragraphs 1 and 2 shall be:

- as regards the Kingdom of Belgium: members of the "police judiciaire près les Parquets" (Criminal Police attached to the Public Prosecutor's Office), the "gendarmerie" and the "police communale" (municipal police), as well as customs officers, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 6, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;

- as regards the Federal Republic of Germany: officers of the "Polizeien des Bundes und der Länder" (Federal Police and Federal State Police), as well as, with respect only to illicit trafficking in narcotic drugs and psychotropic substances and arms trafficking, officers of the "Zollfahndungsdienst" (customs investigation service) in their capacity as auxiliary officers of the Public Prosecutor's Office;

- as regards the French Republic: criminal police officers of the national police and national "gendarmerie", as well as customs officers, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 6, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;

- as regards the Grand Duchy of Luxembourg: officers of the "gendarmerie" and the police, as well as customs officers, under the conditions laid down in appropriate bilateral agreements referred to

in paragraph 6, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;

- as regards the Kingdom of the Netherlands: officers of the "Rijkspolitie" (national police) and the "Gemeentepolitie" (municipal police), as well as, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 6, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives and the illicit transportation of toxic and hazardous waste, officers of the tax inspection and investigation authorities responsible for import and excise duties.

5. The authority referred to in paragraphs 1 and 2 shall be:

- as regards the Kingdom of Belgium: the "Commissariat général de la Police judiciaire" (Criminal Investigation Department),

- as regards the Federal Republic of Germany: the "Bundeskriminalamt" (Federal Crime Office),

- as regards the French Republic: the "Direction centrale de la Police judiciaire" (Central Headquarters of the Criminal Police),

- as regards the Grand Duchy of Luxembourg: the "Procureur général d'Etat" (Principal State Prosecutor),

- as regards the Kingdom of the Netherlands: the "Landelijk Officier van Justitie" (National Public Prosecutor) responsible for cross-border surveillance.

6. The Contracting Parties may, at bilateral level, extend the scope of this Article and adopt additional measures in application thereof.

7. The surveillance referred to in paragraph 2 may only be carried out where one of the following criminal offences is involved:

- murder,

- manslaughter,

- rape,

- arson,

- forgery of money,

- aggravated burglary and robbery and receiving stolen goods,

- extortion,

- kidnapping and hostage taking,

- trafficking in human beings,

- illicit trafficking in narcotic drugs and psychotropic substances,

- breach of the laws on arms and explosives,

- wilful damage through the use of explosives,

- illicit transportation of toxic and hazardous waste.

Article 41

1. Officers of one of the Contracting Parties who are pursuing in their country an individual caught in the act of committing or of participating in one of the offences referred to in paragraph 4 shall be authorised to continue pursuit in the territory of another Contracting Party without the latter's prior authorisation where, given the particular urgency of the situation, it is not possible to notify the competent authorities of the other Contracting Party by one of the means provided for in Article 44 prior to entry into that territory or where these authorities are unable to reach the scene in time to take over the pursuit.

The same shall apply where the person being pursued has escaped from provisional custody or while serving a sentence involving deprivation of liberty.

The pursuing officers shall, not later than when they cross the border, contact the competent authorities of the Contracting Party in whose territory the hot pursuit is to take place. The hot pursuit will cease as soon as the Contracting Party in whose territory the pursuit is taking place so requests. At the request of the pursuing officers, the competent local authorities shall challenge the pursued person in order to establish the person's identity or to make an arrest.

2. Hot pursuit shall be carried out in accordance with one of the following procedures, defined by the declaration laid down in paragraph 9:

(a) The pursuing officers shall not have the right to apprehend the pursued person;

(b) If no request to cease the hot pursuit is made and if the competent local authorities are unable to intervene quickly enough, the pursuing officers may detain the person pursued until the officers of the Contracting Party in whose territory the pursuit is taking place, who must be informed immediately, are able to establish the person's identity or make an arrest.

3. Hot pursuit shall be carried out in accordance with paragraphs 1 and 2 and in one of the following ways as defined by the declaration provided for in paragraph 9:

(a) in an area or during a period as from the crossing of the border, to be established in the declaration;

(b) without limit in space or time.

4. In the declaration referred to in paragraph 9, the Contracting Parties shall define the offences referred to in paragraph 1 in accordance with one of the following procedures:

(a) The following criminal offences:

- murder,

- manslaughter,

- rape,

- arson,

- forgery of money,

- aggravated burglary and robbery and receiving stolen goods,

- extortion,

- kidnapping and hostage taking,

- trafficking in human beings,

- illicit trafficking in narcotic drugs and psychotropic substances,

- breach of the laws on arms and explosives,

- wilful damage through the use of explosives,

- illicit transportation of toxic and hazardous waste,

- failure to stop and give particulars after an accident which has resulted in death or serious injury.

(b) Extraditable offences.

5. Hot pursuit shall be carried out only under the following general conditions:

(a) The pursuing officers must comply with the provisions of this Article and with the law of the Contracting Party in whose territory they are operating; they must obey the instructions issued by the competent local authorities.

(b) Pursuit shall be solely over land borders.

(c) Entry into private homes and places not accessible to the public shall be prohibited.

(d) The pursuing officers shall be easily identifiable, either by their uniform, by means of an armband or by accessories fitted to their vehicles; the use of civilian clothes combined with the use of unmarked vehicles without the aforementioned identification is prohibited; the pursuing officers must at all times be able to prove that they are acting in an official capacity.

(e) The pursuing officers may carry their service weapons; their use shall be prohibited save in cases of legitimate self-defence.

(f) Once the pursued person has been apprehended as provided for in paragraph 2(b), for the purpose of being brought before the competent local authorities that person may only be subjected to a security search; handcuffs may be used during the transfer; objects carried by the pursued person may be seized.

(g) After each operation referred to in paragraphs 1, 2 and 3, the pursuing officers shall appear before the competent local authorities of the Contracting Party in whose territory they were operating and shall report on their mission; at the request of those authorities, they shall remain at their disposal until the circumstances surrounding their action have been sufficiently clarified; this condition shall apply even where the hot pursuit has not resulted in the arrest of the person pursued.

(h) The authorities of the Contracting Party from which the pursuing officers have come shall, when requested by the authorities of the Contracting Party in whose territory the hot pursuit took place, assist the enquiry subsequent to the operation in which they took part, including judicial proceedings.

6. A person who, following the action provided for in paragraph 2, has been arrested by the competent local authorities may, whatever that person's nationality, be held for questioning. The relevant rules of national law shall apply mutatis mutandis.

If the person is not a national of the Contracting Party in whose territory the person was arrested, that person shall be released no later than six hours after the arrest was made, not including the hours between midnight and 9.00 a.m., unless the competent local authorities have previously received a request for that person's provisional arrest for the purposes of extradition in any form whatsoever.

7. The officers referred to in the previous paragraphs shall be:

- as regards the Kingdom of Belgium: members of the "police judiciaire près les Parquets" (Criminal Police attached to the Public Prosecutor's Office), the "gendarmerie" and the "police communale" (municipal police), as well as customs officers, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 10, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;

- as regards the Federal Republic of Germany: officers of the "Polizeien des Bundes und der Länder" (Federal and Federal State Police), as well as, with respect only to illegal trafficking in narcotic drugs and psychotropic substances and arms trafficking, officers of the "Zollfahndungsdienst" (customs investigation service) in their capacity as auxiliary officers of the Public Prosecutor's Office;

- as regards the French Republic: criminal police officers of the national police and national "gendarmerie", as well as customs officers, under the conditions laid down in the appropriate bilateral agreements referred to in paragraph 10, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;

- as regards the Grand Duchy of Luxembourg: officers of the "gendarmerie" and the police, as well as customs officers, under the conditions laid down in the appropriate bilateral agreements referred to in paragraph 10, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste:

- as regards the Kingdom of the Netherlands: officers of the "Rijkspolitie" (national police) and the "Gemeentepolitie" (municipal police) as well as, under the conditions laid down in the appropriate bilateral agreements referred to in paragraph 10, with respect to their powers regarding the illicit

trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives and the illicit transportation of toxic and hazardous waste, officers of the tax inspection and investigation authorities responsible for import and excise duties.

8. For the Contracting Parties concerned this Article shall apply without prejudice to Article 27 of the Benelux Treaty concerning Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974.

9. At the time of signing this Convention, each Contracting Party shall make a declaration in which it shall define for each of the Contracting Parties with which it has a common border, on the basis of paragraphs 2, 3 and 4, the procedures for carrying out a hot pursuit in its territory.

A Contracting Party may at any time replace its declaration by another declaration provided the latter does not restrict the scope of the former.

Each declaration shall be made after consultation with each of the Contracting Parties concerned and with a view to obtaining equivalent arrangements on both sides of internal borders.

10. The Contracting Parties may, on a bilateral basis, extend the scope of paragraph 1 and adopt additional provisions in implementation of this Article.

Article 42

During the operations referred to in Articles 40 and 41, officers operating in the territory of another Contracting Party shall be regarded as officers of that Party with respect to offences committed against them or by them.

Article 43

1. Where, in accordance with Articles 40 and 41 of this Convention, officers of a Contracting Party are operating in the territory of another Contracting Party, the first Contracting Party shall be liable for any damage caused by them during their operations, in accordance with the law of the Contracting Party in whose territory they are operating.

2. The Contracting Party in whose territory the damage referred to in paragraph 1 was caused shall make good such damage under the conditions applicable to damage caused by its own officers.

3. The Contracting Party whose officers have caused damage to any person in the territory of another Contracting Party shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.

4. Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 3, each Contracting Party shall refrain in the case provided for in paragraph 1 from requesting reimbursement of damages it has sustained from another Contracting Party.

Article 44

1. In accordance with the relevant international agreements and account being taken of local circumstances and technical possibilities, the Contracting Parties shall install, in particular in border areas, telephone, radio, and telex lines and other direct links to facilitate police and customs

cooperation, in particular for the timely transmission of information for the purposes of cross-border surveillance and hot pursuit.

2. In addition to these short-term measures, they will in particular consider the following options:

(a) exchanging equipment or posting liaison offers provided with appropriate radio equipment;

(b) widening the frequency bands used in border areas;

(c) establishing common links for police and customs services operating in these same areas;

(d) coordinating their programmes for the procurement of communications equipment, with a view to installing standardised and compatible communications systems.

Article 45

1. The Contracting Parties undertake to adopt the necessary measures in order to ensure that:

(a) the managers of establishments providing accommodation or their agents see to it that aliens accommodated therein, including nationals of the other Contracting Parties and those of other Member States of the European Communities, with the exception of accompanying spouses or accompanying minors or members of travel groups, personally complete and sign registration forms and confirm their identity by producing a valid identity document;

(b) the completed registration forms will be kept for the competent authorities or forwarded to them where such authorities deem this necessary for the prevention of threats, for criminal investigations or for clarifying the circumstances of missing persons or accident victims, save where national law provides otherwise.

2. Paragraph 1 shall apply mutatis mutandis to persons staying in any commercially rented accommodation, in particular tents, caravans and boats.

Article 46

1. In specific cases, each Contracting Party may, in compliance with its national law and without being so requested, send the Contracting Party concerned any information which may be important in helping it combat future crime and prevent offences against or threats to public policy and public security.

2. Information shall be exchanged, without prejudice to the arrangements for cooperation in border areas referred to in Article 39(4), via a central body to be designated. In particularly urgent cases, the exchange of information within the meaning of this Article may take place directly between the police authorities concerned, unless national provisions stipulate otherwise. The central body shall be informed of this as soon as possible.

Article 47

1. The Contracting Parties may conclude bilateral agreements providing for the secondment, for a specified or unspecified period, of liaison officers from one Contracting Party to the police authorities of another Contracting Party.

2. The secondment of liaison officers for a specified or unspecified period is intended to further and accelerate cooperation between the Contracting Parties, particularly by providing assistance:

(a) in the form of the exchange of information for the purposes of combating crime by means of both prevention and law enforcement;

(b) in executing requests for mutual police and judicial assistance in criminal matters;

(c) with the tasks carried out by the authorities responsible for external border surveillance.

3. Liaison officers shall have the task of providing advice and assistance. They shall not be empowered to take independent police action. They shall supply information and perform their duties in accordance with the instructions given to them by the seconding Contracting Party and by the Contracting Party to which they are seconded. They shall report regularly to the head of the police department to which they are seconded.

4. The Contracting Parties may agree within a bilateral or multilateral framework that liaison officers from a Contracting Party seconded to third States shall also represent the interests of one or more other Contracting Parties. Under such agreements, liaison officers seconded to third States shall supply information to other Contracting Parties when requested to do so or on their own initiative and shall, within the limits of their powers, perform duties on behalf of such Parties. The Contracting Parties shall inform one another of their intentions with regard to the secondment of liaison officers to third States.

CHAPTER 2

MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Article 48

1. The provisions of this Chapter are intended to supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 as well as, in relations between the Contracting Parties which are members of the Benelux Economic Union, Chapter II of the Benelux Treaty concerning Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974, and to facilitate the implementation of those Agreements.

2. Paragraph 1 shall not affect the application of the broader provisions of the bilateral agreements in force between the Contracting Parties.

Article 49

Mutual assistance shall also be afforded:

(a) in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of one of the two Contracting Parties, or of both, by virtue of being infringements of the rules of law, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters;

(b) in proceedings for claims for damages arising from wrongful prosecution or conviction;

(c) in clemency proceedings;

(d) in civil actions joined to criminal proceedings, as long as the criminal court has not yet taken a final decision in the criminal proceedings;

(e) in the service of judicial documents relating to the enforcement of a sentence or a preventive measure, the imposition of a fine or the payment of costs for proceedings;

(f) in respect of measures relating to the deferral of delivery or suspension of enforcement of a sentence or a preventive measure, to conditional release or to a stay or interruption of enforcement of a sentence or a preventive measure.

Article 50

1. The Contracting Parties undertake to afford each other, in accordance with the Convention and the Treaty referred to in Article 48, mutual assistance as regards infringements of their laws and regulations on excise duties, value added tax and customs duties. Customs provisions shall mean the rules laid down in Article 2 of the Convention of 7 September 1967 between Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands on Mutual Assistance between Customs Administrations, and Article 2 of Council Regulation (EEC) No 1468/81 of 19 May 1981.

2. Requests regarding evasion of excise duties may not be rejected on the grounds that the requested country does not levy excise duties on the goods referred to in the request.

3. The requesting Contracting Party shall not forward or use information or evidence obtained from the requested Contracting Party for investigations, prosecutions or proceedings other than those referred to in its request without the prior consent of the requested Contracting Party.

4. The mutual assistance provided for in this Article may be refused where the alleged amount of duty underpaid or evaded does not exceed ECU 25000 or where the presumed value of the goods exported or imported without authorisation does not exceed ECU 100000, unless, given the circumstances or the identity of the accused, the case is deemed to be extremely serious by the requesting Contracting Party.

5. The provisions of this Article shall also apply when the mutual assistance requested concerns acts punishable only by a fine by virtue of being infringements of the rules of law in proceedings brought by the administrative authorities, where the request for assistance was made by a judicial authority.

Article 51

The Contracting Parties may not make the admissibility of letters rogatory for search or seizure dependent on conditions other than the following:

(a) the act giving rise to the letters rogatory is punishable under the law of both Contracting Parties by a penalty involving deprivation of liberty or a detention order of a maximum period of at least six months, or is punishable under the law of one of the two Contracting Parties by an equivalent penalty and under the law of the other Contracting Party by virtue of being an infringement of the rules of law which is being prosecuted by the administrative authorities, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters;

(b) execution of the letters rogatory is consistent with the law of the requested Contracting Party.

Article 52

1. Each Contracting Party may send procedural documents directly by post to persons who are in the territory of another Contracting Party. The Contracting Parties shall send the Executive Committee a list of the documents which may be forwarded in this way.

2. Where there is reason to believe that the addressee does not understand the language in which the document is written, the document - or at least the important passages thereof - must be translated into (one of) the language(s) of the Contracting Party in whose territory the addressee is staying. If the authority forwarding the document knows that the addressee understands only some other language, the document - or at least the important passages thereof - must be translated into that other language.

3. Experts or witnesses who have failed to answer a summons to appear sent to them by post shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of constraint, unless subsequently they voluntarily enter into the territory of the requesting Party and are there again duly summoned. Authorities sending a postal summons to appear shall ensure that this does not involve a notice of penalty. This provision shall be without prejudice to Article 34 of the Benelux Treaty concerning Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974.

4. If the act on which the request for assistance is based is punishable under the law of both Contracting Parties by virtue of being an infringement of the rules of law which is being prosecuted by the administrative authorities, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters, the procedure outlined in paragraph 1 must in principle be used for the forwarding of procedural documents.

5. Notwithstanding paragraph 1, procedural documents may be forwarded via the judicial authorities of the requested Contracting Party where the addressee's address is unknown or where the requesting Contracting Party requires a document to be served in person.

Article 53

1. Requests for assistance may be made directly between judicial authorities and returned via the same channels.

2. Paragraph 1 shall not prejudice the possibility of requests being sent and returned between Ministries of Justice or through national central bureaux of the International Criminal Police Organisation.

3. Requests for the temporary transfer or transit of persons who are under provisional arrest, being detained or who are the subject of a penalty involving deprivation of liberty, and the periodic or occasional exchange of information from the judicial records must be effected through the Ministries of Justice.

4. Within the meaning of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, where the Federal Republic of Germany is concerned, Ministry of Justice shall mean the Federal Minister of Justice and the Justice Ministers or Senators in the Federal States (Länder).

5. Information laid in connection with proceedings against infringement of the legislation on driving and rest periods, in accordance with Article 21 of the European Convention on Mutual Assistance in

Criminal Matters of 20 April 1959 or Article 42 of the Benelux Treaty on Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974, may be sent by the judicial authorities of the requesting Contracting Party directly to the judicial authorities of the requested Contracting Party.

CHAPTER 3

APPLICATION OF THE NE BIS IN IDEM PRINCIPLE

Article 54

A person whose trial has been finally disposed of in one Contracting Party may not be prosecuted in another Contracting Party for the same acts provided that, if a penalty has been imposed, it has been enforced, is actually in the process of being enforced or can no longer be enforced under the laws of the sentencing Contracting Party.

Article 55

1. A Contracting Party may, when ratifying, accepting or approving this Convention, declare that it is not bound by Article 54 in one or more of the following cases:

(a) where the acts to which the foreign judgment relates took place in whole or in part in its own territory; in the latter case, however, this exception shall not apply if the acts took place in part in the territory of the Contracting Party where the judgment was delivered;

(b) where the acts to which the foreign judgment relates constitute an offence against national security or other equally essential interests of that Contracting Party;

(c) where the acts to which the foreign judgment relates were committed by officials of that Contracting Party in violation of the duties of their office.

2. A Contracting Party which has made a declaration regarding the exception referred to in paragraph 1(b) shall specify the categories of offences to which this exception may apply.

3. A Contracting Party may at any time withdraw a declaration relating to one or more of the exceptions referred to in paragraph 1.

4. The exceptions which were the subject of a declaration under paragraph 1 shall not apply where the Contracting Party concerned has, in connection with the same acts, requested the other Contracting Party to bring the prosecution or has granted extradition of the person concerned.

Article 56

If a further prosecution is brought in a Contracting Party against a person whose trial, in respect of the same acts, has been finally disposed of in another Contracting Party, any period of deprivation of liberty served in the latter Contracting Party arising from those acts shall be deducted from any penalty imposed. To the extent permitted by national law, penalties not involving deprivation of liberty shall also be taken into account.

Article 57

1. Where a Contracting Party charges a person with an offence and the competent authorities of that Contracting Party have reason to believe that the charge relates to the same acts as those in respect of which the person's trial has been finally disposed of in another Contracting Party, those authorities shall, if they deem it necessary, request the relevant information from the competent authorities of the Contracting Party in whose territory judgment has already been delivered.

2. The information requested shall be provided as soon as possible and shall be taken into consideration as regards further action to be taken in the proceedings under way.

3. Each Contracting Party shall, when ratifying, accepting or approving this Convention, nominate the authorities authorised to request and receive the information provided for in this Article.

Article 58

The above provisions shall not preclude the application of broader national provisions on the ne bis in idem principle with regard to judicial decisions taken abroad.

CHAPTER 4

EXTRADITION

Article 59

1. The provisions of this chapter are intended to supplement the European Convention on Extradition of 13 September 1957 as well as, in relations between the Contracting Parties which are members of the Benelux Economic Union, Chapter I of the Benelux Treaty concerning Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974, and to facilitate the implementation of those agreements.

2. Paragraph 1 shall not affect the application of the broader provisions of the bilateral agreements in force between the Contracting Parties.

Article 60

In relations between two Contracting Parties, one of which is not a Party to the European Convention on Extradition of 13 September 1957, the provisions of the said Convention shall apply, subject to the reservations and declarations made at the time of ratifying that Convention or, for Contracting Parties which are not Parties to the Convention, at the time of ratifying, approving or accepting this Convention.

Article 61

The French Republic undertakes to extradite, at the request of one of the Contracting Parties, persons against whom proceedings are being brought for acts punishable under French law by a penalty involving deprivation of liberty or a detention order of a maximum period of at least two years and under the law of the requesting Contracting Party by a penalty involving deprivation of liberty or a detention order of a maximum period of at least one year.

Article 62

1. As regards interruption of limitation of actions, only the provisions of the requesting Contracting Party shall apply.

2. An amnesty granted by the requested Contracting Party shall not prevent extradition unless the offence falls within the jurisdiction of that Contracting Party.

3. The absence of a charge or an official notice authorising proceedings, necessary only under the law of the requested Contracting Party, shall not affect the obligation to extradite.

Article 63

The Contracting Parties undertake, in accordance with the Convention and the Treaty referred to in Article 59, to extradite between themselves persons being prosecuted by the judicial authorities of the requesting Contracting Party for one of the offences referred to in Article 50(1), or sought by the requesting Contracting Party for the purposes of enforcing a sentence or preventive measure imposed in respect of such an offence.

Article 64

An alert entered into the Schengen Information System in accordance with Article 95 shall have the same force as a request for provisional arrest under Article 16 of the European Convention on Extradition of 13 September 1957 or Article 15 of the Benelux Treaty concerning Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974.

Article 65

1. Without prejudice to the option of using the diplomatic channel, requests for extradition and transit shall be sent by the relevant Ministry of the requesting Contracting Party to the competent Ministry of the requested Contracting Party.

2. The competent Ministries shall be:

- as regards the Kingdom of Belgium: the Ministry of Justice,

- as regards the Federal Republic of Germany: the Federal Ministry of Justice and the Justice Ministers or Senators in the Federal States (Länder),

- as regards the French Republic: the Ministry of Foreign Affairs,

- as regards the Grand Duchy of Luxembourg: the Ministry of Justice,

- as regards the Kingdom of the Netherlands: the Ministry of Justice.

Article 66

1. If the extradition of a wanted person is not clearly prohibited under the laws of the requested Contracting Party, that Contracting Party may authorise extradition without formal extradition proceedings, provided that the wanted person agrees thereto in a statement made before a member of the judiciary after being heard by the latter and informed of the right to formal extradition proceedings. The wanted person may be assisted by a lawyer during the hearing.

2. In cases of extradition under paragraph 1, wanted persons who explicitly state that they will relinquish the protection offered by the principle of speciality may not revoke that statement.

CHAPTER 5

TRANSFER OF THE ENFORCEMENT OF CRIMINAL JUDGMENTS

Article 67

The following provisions shall apply between the Contracting Parties which are Parties to the Council of Europe Convention on the Transfer of Sentenced Persons of 21 March 1983, for the purposes of supplementing that Convention.

Article 68

1. The Contracting Party in whose territory a penalty involving deprivation of liberty or a detention order has been imposed by a judgment which has obtained the force of res judicata in respect of a national of another Contracting Party who, by escaping to the national's own country, has avoided the enforcement of that penalty or detention order may request the latter Contracting Party, if the escaped person is within its territory, to take over the enforcement of the penalty or detention order.

2. The requested Contracting Party may, at the request of the requesting Contracting Party, prior to the arrival of the documents supporting the request that the enforcement of the penalty or detention order or part thereof remaining to be served be taken over, and prior to the decision on that request, take the sentenced person into police custody or take other measures to ensure that the person remains within the territory of the requested Contracting Party.

Article 69

The transfer of enforcement under Article 68 shall not require the consent of the person on whom the penalty or the detention order has been imposed. The other provisions of the Council of Europe Convention on the Transfer of Sentenced Persons of 21 March 1983 shall apply mutatis mutandis.

CHAPTER 6

NARCOTIC DRUGS

Article 70

1. The Contracting Parties shall set up a permanent working party to examine common problems relating to combating crime involving narcotic drugs and to draw up proposals, where necessary, to improve the practical and technical aspects of cooperation between the Contracting Parties. The working party shall submit its proposals to the Executive Committee.

2. The working party referred to in paragraph 1, whose members shall be nominated by the competent national authorities, shall include representatives of the police and customs authorities.

Article 71

1. The Contracting Parties undertake as regards the direct or indirect sale of narcotic drugs and psychotropic substances of whatever type, including cannabis, and the possession of such products

and substances for sale or export, to adopt in accordance with the existing United Nations Conventions(1), all necessary measures to prevent and punish the illicit trafficking in narcotic drugs and psychotropic substances.

2. The Contracting Parties undertake to prevent and punish by administrative and penal measures the illegal export of narcotic drugs and psychotropic substances, including cannabis, as well as the sale, supply and handing over of such products and substances, without prejudice to the relevant provisions of Articles 74, 75 and 76.

3. To combat the illegal import of narcotic drugs and psychotropic substances, including cannabis, the Contracting Parties shall step up their checks on the movement of persons, goods and means of transport at their external borders. Such measures shall be drawn up by the working party provided for in Article 70. This working party shall consider, inter alia, transferring some of the police and customs staff released from internal border duty and the use of modern drug-detection methods and sniffer dogs.

4. To ensure compliance with this Article, the Contracting Parties shall specifically carry out surveillance of places known to be used for drug trafficking.

5. The Contracting Parties shall do their utmost to prevent and combat the negative effects arising from the illicit demand for narcotic drugs and psychotropic substances of whatever type, including cannabis. Each Contracting Party shall be responsible for the measures adopted to this end.

Article 72

The Contracting Parties shall, in accordance with their constitutions and their national legal systems, ensure that legislation is enacted to enable the seizure and confiscation of the proceeds of the illicit trafficking in narcotic drugs and psychotropic substances.

Article 73

1. The Contracting Parties undertake, in accordance with their constitutions and their national legal systems, to adopt measures to allow controlled deliveries to be made in the context of the illicit trafficking in narcotic drugs and psychotropic substances.

2. In each individual case, a decision to allow controlled deliveries will be taken on the basis of prior authorisation from each Contracting Party concerned.

3. Each Contracting Party shall retain responsibility for and control over any operation carried out in its own territory and shall be entitled to intervene.

Article 74

As regards the legal trade in narcotic drugs and psychotropic substances, the Contracting Parties agree that the checks arising from obligations under the United Nations Conventions listed in Article 71 and which are carried out at internal borders shall, wherever possible, be transferred to within the country.

Article 75

1. As regards the movement of travellers to the territories of the Contracting Parties or their movement within these territories, persons may carry the narcotic drugs and psychotropic substances that are necessary for their medical treatment provided that, at any check, they produce a certificate issued or authenticated by a competent authority of their State of residence.

2. The Executive Committee shall lay down the form and content of the certificate referred to in paragraph 1 and issued by one of the Contracting Parties, with particular reference to details on the nature and quantity of the products and substances and the duration of the journey.

3. The Contracting Parties shall notify each other of the authorities responsible for the issue and authentication of the certificate referred to in paragraph 2.

Article 76

1. The Contracting Parties shall, where necessary, and in accordance with their medical, ethical and practical usage, adopt appropriate measures for the control of narcotic drugs and psychotropic substances which in the territory of one or more Contracting Parties are subject to more rigorous controls than in their own territory, so as not to jeopardise the effectiveness of such controls.

2. Paragraph 1 shall also apply to substances frequently used in the manufacture of narcotic drugs and psychotropic substances.

3. The Contracting Parties shall notify each other of the measures taken in order to monitor the legal trade of the substances referred to in paragraphs 1 and 2.

4. Problems experienced in this area shall be raised regularly in the Executive Committee.

CHAPTER 7

FIREARMS AND AMMUNITION

Article 77

1. The Contracting Parties undertake to adapt their national laws, regulations and administrative provisions relating to the acquisition, possession, trade in and handing over of firearms and ammunition to the provisions of this chapter.

2. This chapter covers the acquisition, possession, trade in and handing over of firearms and ammunition by natural and legal persons; it does not cover the supply of firearms or ammunition to, or their acquisition or possession by, the central and territorial authorities, the armed forces or the police or the manufacture of firearms and ammunition by public undertakings.

Article 78

1. For the purposes of this chapter, firearms shall be classified as follows:

(a) prohibited firearms;

(b) firearms subject to authorisation;

(c) firearms subject to declaration.

2. The breach-closing mechanism, the magazine and the barrel of firearms shall be subject mutatis mutandis to the regulations governing the weapon of which they are, or are intended to be, mounted.

3. For the purposes of this Convention, "short firearms" shall mean firearms with a barrel not exceeding 30 cm or whose overall length does not exceed 60 cm; "long firearms" shall mean all other firearms.

Article 79

1. The list of prohibited firearms and ammunition shall include the following:

(a) firearms normally used as weapons of war;

(b) automatic firearms, even if they are not weapons of war;

(c) firearms disguised as other objects;

(d) ammunition with penetrating, explosive or incendiary projectiles and the projectiles for such ammunition;

(e) ammunition for pistols and revolvers with dumdum or hollow-pointed projectiles and projectiles for such ammunition.

2. In special cases the competent authorities may grant authorisations for the firearms and ammunition referred to in paragraph 1 if this is not contrary to public policy or public security.

Article 80

1. The list of firearms the acquisition and possession of which is subject to authorisation shall include at least the following if they are not prohibited:

(a) semi-automatic or repeating short firearms;

(b) single-shot short firearms with centrefire percussion;

(c) single-shot short firearms with rimfire percussion, with an overall length of less than 28 cm;

(d) semi-automatic long firearms whose magazine and chamber can together hold more than three rounds;

(e) repeating semi-automatic long firearms with smoothbore barrels not exceeding 60 cm in length;

(f) semi-automatic firearms for civilian use which resemble weapons of war with automatic mechanisms.

2. The list of firearms subject to authorisation shall not include:

(a) arms used as warning devices or alarms or to fire non-lethal incapacitants, provided that it is guaranteed by technical means that such arms cannot be converted, using ordinary tools, to fire

ammunition with projectiles and provided that the firing of an irritant substance does not cause permanent injury to persons;

(b) semi-automatic long firearms whose magazine and chamber cannot hold more than three rounds without being reloaded, provided that the loading device is non-removable or that it is certain that the firearms cannot be converted, using ordinary tools, into firearms whose magazine and chamber can together hold more than three rounds.

Article 81

The list of firearms subject to declaration shall include, if such arms are neither prohibited nor subject to authorisation:

(a) repeating long firearms;

(b) long firearms with single-shot rifled barrel or barrels;

(c) single-shot short firearms with rimfire percussion whose overall length exceeds 28 cm;

(d) the arms listed in Article 80(2)(b).

Article 82

The list of arms referred to in Articles 79, 80 and 81 shall not include:

(a) firearms whose model or year of manufacture, save in exceptional cases, predates 1 January 1870, provided that they cannot fire ammunition intended for prohibited arms or arms subject to authorisation;

(b) reproductions of arms listed under (a), provided that they cannot be used to fire metal-case cartridges;

(c) firearms which by technical procedures guaranteed by the stamp of an official body or recognised by such a body have been rendered unfit to fire any kind of ammunition.

Article 83

Authorisation to acquire and to possess a firearm listed in Article 80 may be issued only:

(a) if the person concerned is over 18 years of age, with the exception of dispensations for hunting or sporting purposes;

(b) if the person concerned is not unfit, as a result of mental illness or any other mental or physical disability, to acquire or possess a firearm;

(c) if the person concerned has not been convicted of an offence, or if there are no other indications that the person might be a danger to public policy or public security;

(d) if the reasons given by the person concerned for acquiring or possessing firearms can be considered legitimate.

Article 84

1. Declarations in respect of the firearms mentioned in Article 81 shall be entered in a register kept by the persons referred to in Article 85.

2. If a firearm is transferred by a person not referred to in Article 85, a declaration of transfer must be made in accordance with procedures to be laid down by each Contracting Party.

3. The declarations referred to in this Article shall contain the details necessary in order to identify the persons and the arms concerned.

Article 85

1. The Contracting Parties undertake to impose an authorisation requirement on manufacturers of, and on dealers in, firearms subject to authorisation and to impose a declaration requirement on manufacturers of, and on dealers in, firearms subject to declaration. Authorisation for firearms subject to authorisation shall also cover firearms subject to declaration. The Contracting Parties shall carry out checks on arms manufacturers and arms dealers, thereby guaranteeing effective control.

2. The Contracting Parties undertake to adopt measures to ensure that, as a minimum requirement, all firearms are permanently marked with a serial number enabling identification and that they carry the manufacturer's mark.

3. The Contracting Parties shall require manufacturers and dealers to keep a register of all firearms subject to authorisation or declaration; the register shall enable rapid identification of the type and origin of the firearms and the persons acquiring them.

4. As regards firearms subject to authorisation under Articles 79 and 80, the Contracting Parties undertake to adopt measures to ensure that the serial number and the manufacturer's mark on the firearm are entered in the authorisation issued to its holder.

Article 86

1. The Contracting Parties undertake to adopt measures prohibiting legitimate holders of firearms subject to authorisation or declaration from handing such arms over to persons who do not hold either an authorisation to acquire them or a declaration certificate.

2. The Contracting Parties may authorise the temporary handing over of such firearms in accordance with procedures that they shall lay down.

Article 87

1. The Contracting Parties shall incorporate in their national law provisions enabling authorisation to be withdrawn from persons who no longer satisfy the conditions for the issue of authorisations under Article 83.

2. The Contracting Parties undertake to adopt appropriate measures, including the seizure of firearms and withdrawal of authorisations, and to lay down appropriate penalties for any infringements of the laws and regulations on firearms. Such penalties may include the confiscation of firearms.

Article 88

1. A person who holds an authorisation to acquire a firearm shall not require an authorisation to acquire ammunition for that firearm.

2. The acquisition of ammunition by persons not holding an authorisation to acquire arms shall be subject to the arrangements governing the weapon for which the ammunition is intended. The authorisation may be issued for a single category or for all categories of ammunition.

Article 89

The lists of firearms which are prohibited, subject to authorisation or subject to declaration, may be amended or supplemented by the Executive Committee to take account of technical and economic developments and national security.

Article 90

The Contracting Parties may adopt more stringent laws and provisions on the acquisition and possession of firearms and ammunition.

Article 91

1. The Contracting Parties agree, on the basis of the European Convention on the Control of the Acquisition and Possession of Firearms by Individuals of 28 June 1978, to set up within the framework of their national laws an exchange of information on the acquisition of firearms by persons - whether private individuals or firearms dealers - habitually resident or established in the territory of another Contracting Party. A firearms dealer shall mean any person whose trade or business consists, in whole or in part, in the retailing of firearms.

2. The exchange of information shall concern:

(a) between two Contracting Parties having ratified the Convention referred to in paragraph 1: the firearms listed in Appendix 1(A)(1)(a) to (h) of the said Convention;

(b) between two Contracting Parties at least one of which has not ratified the Convention referred to in paragraph 1: firearms which are subject to authorisation or declaration in each of the Contracting Parties.

3. Information on the acquisition of firearms shall be communicated without delay and shall include the following:

(a) the date of acquisition of the firearm and the identity of the person acquiring it, i.e.:

- in the case of a natural person: surname, forenames, date and place of birth, address and passport or identity card number, date of issue and details of the issuing authority, whether firearms dealer or not,

- in the case of a legal person: the name or business name and registered place of business and the surname, forenames, date and place of birth, address and passport or identity card number of the person authorised to represent the legal person;

(b) the model, manufacturer's number, calibre and other characteristics of the firearm in question and its serial number.

4. Each Contracting Party shall designate the national authority responsible for sending and receiving the information referred to in paragraphs 2 and 3 and shall immediately inform the other Contracting Parties of any change of designated authority.

5. The authority designated by each Contracting Party may forward the information it has received to the competent local police authorities and the authorities responsible for border surveillance, for the purposes of preventing or prosecuting criminal offences and infringements of rules of law.

TITLE IV

THE SCHENGEN INFORMATION SYSTEM

CHAPTER 1

ESTABLISHMENT OF THE SCHENGEN INFORMATION SYSTEM

Article 92

1. The Contracting Parties shall set up and maintain a joint information system, hereinafter referred to as "the Schengen Information System", consisting of a national section in each of the Contracting Parties and a technical support function. The Schengen Information System shall enable the authorities designated by the Contracting Parties, by means of an automated search procedure, to have access to alerts on persons and property for the purposes of border checks and other police and customs checks carried out within the country in accordance with national law and, in the case of the specific category of alerts referred to in Article 96, for the purposes of issuing visas, residence permits and the administration of legislation on aliens in the context of the application of the provisions of this Convention relating to the movement of persons.

2. Each Contracting Party shall set up and maintain, for its own account and at its own risk, its national section of the Schengen Information System, the data file of which shall be made materially identical to the data files of the national sections of each of the other Contracting Parties by means of the technical support function. To ensure the rapid and effective transmission of data as referred to in paragraph 3, each Contracting Party shall observe, when setting up its national section, the protocols and procedures which the Contracting Parties have jointly established for the technical support function. Each national section's data file shall be available for the purposes of carrying out automated searches in the territory of each of the Contracting Parties. It shall not be possible to search the data files of other Contracting Parties' national sections.

3. The Contracting Parties shall set up and maintain, on a common cost basis and bearing joint liability, the technical support function of the Schengen Information System. The French Republic shall be responsible for the technical support function, which shall be located in Strasbourg. The technical support function shall comprise a data file which will ensure via on-line transmission that the data files of the national sections contain identical information. The data files of the technical support function shall contain alerts for persons and property in so far as these concern all the Contracting Parties. The data file of the technical support function shall contain no data other than those referred to in this paragraph and in Article 113(2).

CHAPTER 2

OPERATION AND USE OF THE SCHENGEN INFORMATION SYSTEM

Article 93

The purpose of the Schengen Information System shall be in accordance with this Convention to maintain public policy and public security, including national security, in the territories of the Contracting Parties and to apply the provisions of this Convention relating to the movement of persons in those territories, using information communicated via this system.

Article 94

1. The Schengen Information System shall contain only those categories of data which are supplied by each of the Contracting Parties, as required for the purposes laid down in Articles 95 to 100. The Contracting Party issuing an alert shall determine whether the case is important enough to warrant entry of the alert in the Schengen Information System.

2. The categories of data shall be as follows:

(a) persons for whom an alert has been issued;

(b) objects referred to in Article 100 and vehicles referred to in Article 99.

3. For persons, the information shall be no more than the following:

(a) surname and forenames, any aliases possibly entered separately;

(b) any specific objective physical characteristics not subject to change;

(c) first letter of second forename;

(d) date and place of birth;

(e) sex;

(f) nationality;

(g) whether the persons concerned are armed;

(h) whether the persons concerned are violent;

(i) reason for the alert;

(j) action to be taken.

Other information, in particular the data listed in the first sentence of Article 6 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981, shall not be authorised.

4. Where a Contracting Party considers that an alert in accordance with Articles 95, 97 or 99 is incompatible with its national law, its international obligations or essential national interests, it may subsequently add to the alert contained in the data file of the national section of the Schengen

Information System a flag to the effect that the action to be taken on the basis of the alert will not be taken in its territory. Consultation must be held in this connection with the other Contracting Parties. If the Contracting Party issuing the alert does not withdraw the alert, it shall continue to apply in full for the other Contracting Parties.

Article 95

1. Data on persons wanted for arrest for extradition purposes shall be entered at the request of the judicial authority of the requesting Contracting Party.

2. Before issuing an alert, the Contracting Party shall check whether the arrest is authorised under the national law of the requested Contracting Parties. If the Contracting Party issuing the alert has any doubts, it must consult the other Contracting Parties concerned.

The Contracting Party issuing the alert shall send the requested Contracting Parties by the quickest means possible both the alert and the following essential information relating to the case:

(a) the authority which issued the request for arrest;

(b) whether there is an arrest warrant or other document having the same legal effect, or an enforceable judgment;

(c) the nature and legal classification of the offence;

(d) a description of the circumstances in which the offence was committed, including the time, place and the degree of participation in the offence by the person for whom the alert has been issued;

(e) in so far as is possible, the consequences of the offence.

3. A requested Contracting Party may add to the alert in the data file of its national section of the Schengen Information System a flag prohibiting arrest on the basis of the alert until the flag is deleted. The flag must be deleted no later than 24 hours after the alert has been entered, unless the Contracting Party refuses to make the requested arrest on legal grounds or for special reasons of expediency. In particularly exceptional cases where this is justified by the complex nature of the facts behind the alert, the above time limit may be extended to one week. Without prejudice to a flag or a decision to refuse the arrest, the other Contracting Parties may make the arrest requested in the alert.

4. If, for particularly urgent reasons, a Contracting Party requests an immediate search, the requested Contracting Party shall examine whether it is able to withdraw its flag. The requested Contracting Party shall take the necessary steps to ensure that the action to be taken can be carried out immediately if the alert is validated.

5. If the arrest cannot be made because an investigation has not been completed or because a requested Contracting Party refuses, the latter must regard the alert as being an alert for the purposes of communicating the place of residence of the person concerned.

6. The requested Contracting Parties shall carry out the action as requested in the alert in accordance with extradition Conventions in force and with national law. They shall not be obliged

to carry out the action requested where one of their nationals is involved, without prejudice to the possibility of making the arrest in accordance with national law.

Article 96

1. Data on aliens for whom an alert has been issued for the purposes of refusing entry shall be entered on the basis of a national alert resulting from decisions taken by the competent administrative authorities or courts in accordance with the rules of procedure laid down by national law.

2. Decisions may be based on a threat to public policy or public security or to national security which the presence of an alien in national territory may pose.

This situation may arise in particular in the case of:

(a) an alien who has been convicted of an offence carrying a penalty involving deprivation of liberty of at least one year;

(b) an alien in respect of whom there are serious grounds for believing that he has committed serious criminal offences, including those referred to in Article 71, or in respect of whom there is clear evidence of an intention to commit such offences in the territory of a Contracting Party.

3. Decisions may also be based on the fact that the alien has been subject to measures involving deportation, refusal of entry or removal which have not been rescinded or suspended, including or accompanied by a prohibition on entry or, where applicable, a prohibition on residence, based on a failure to comply with national regulations on the entry or residence of aliens.

Article 97

Data on missing persons or persons who, for their own protection or in order to prevent threats, need temporarily to be placed under police protection at the request of the competent authority or the competent judicial authority of the Party issuing the alert shall be entered, so that the police authorities may communicate their whereabouts to the Party issuing the alert or may move the persons to a safe place in order to prevent them from continuing their journey, if so authorised by national law. This shall apply in particular to minors and persons who must be interned following a decision by a competent authority. The communication of data on a missing person who is of age shall be subject to the person's consent.

Article 98

1. Data on witnesses, persons summoned to appear before the judicial authorities in connection with criminal proceedings in order to account for acts for which they are being prosecuted, or persons who are to be served with a criminal judgment or a summons to report in order to serve a penalty involving deprivation of liberty shall be entered, at the request of the competent judicial authorities, for the purposes of communicating their place of residence or domicile.

2. Information requested shall be communicated to the requesting Party in accordance with national law and the Conventions in force on mutual assistance in criminal matters.

Article 99

1. Data on persons or vehicles shall be entered in accordance with the national law of the Contracting Party issuing the alert, for the purposes of discreet surveillance or of specific checks in accordance with paragraph 5.

2. Such an alert may be issued for the purposes of prosecuting criminal offences and for the prevention of threats to public security:

(a) where there is clear evidence that the person concerned intends to commit or is committing numerous and extremely serious criminal offences; or

(b) where an overall assessment of the person concerned, in particular on the basis of past criminal offences, gives reason to suppose that that person will also commit extremely serious criminal offences in the future.

3. In addition, the alert may be issued in accordance with national law, at the request of the authorities responsible for national security, where there is clear evidence that the information referred to in paragraph 4 is necessary in order to prevent a serious threat by the person concerned or other serious threats to internal or external national security. The Contracting Party issuing the alert shall be obliged to consult the other Contracting Parties beforehand.

4. For the purposes of discreet surveillance, all or some of the following information may be collected and communicated to the authority issuing the alert when border checks or other police and customs checks are carried out within the country:

(a) the fact that the person for whom or the vehicle for which an alert has been issued has been found;

(b) the place, time or reason for the check;

(c) the route and destination of the journey;

(d) persons accompanying the person concerned or occupants of the vehicle;

(e) the vehicle used;

(f) objects carried;

(g) the circumstances under which the person or the vehicle was found.

During the collection of this information steps must be taken not to jeopardise the discreet nature of the surveillance.

5. During the specific checks referred to in paragraph 1, persons, vehicles and objects carried may be searched in accordance with national law for the purposes referred to in paragraphs 2 and 3. If the specific check is not authorised under the law of a Contracting Party, it shall automatically be replaced, for that Contracting Party, by discreet surveillance.

6. A requested Contracting Party may add to the alert in the data file of its national section of the Schengen Information System a flag prohibiting, until the flag is deleted, performance of the action to be taken on the basis of the alert for the purposes of discreet surveillance or specific checks. The flag must be deleted no later than 24 hours after the alert has been entered unless the Contracting

Party refuses to take the action requested on legal grounds or for special reasons of expediency. Without prejudice to a flag or a refusal, the other Contracting Parties may carry out the action requested in the alert.

Article 100

1. Data on objects sought for the purposes of seizure or use as evidence in criminal proceedings shall be entered in the Schengen Information System.

2. If a search brings to light an alert for an object which has been found, the authority which matched the two items of data shall contact the authority which issued the alert in order to agree on the measures to be taken. For this purpose, personal data may also be communicated in accordance with this Convention. The measures to be taken by the Contracting Party which found the object must be in accordance with its national law.

3. The following categories of objects shall be entered:

(a) motor vehicles with a cylinder capacity exceeding 50 cc which have been stolen, misappropriated or lost;

(b) trailers and caravans with an unladen weight exceeding 750 kg which have been stolen, misappropriated or lost;

(c) firearms which have been stolen, misappropriated or lost;

(d) blank official documents which have been stolen, misappropriated or lost;

(e) issued identity papers (passports, identity cards, driving licences) which have been stolen, misappropriated or lost;

(f) banknotes (suspect notes).

Article 101

1. Access to data entered in the Schengen Information System and the right to search such data directly shall be reserved exclusively to the authorities responsible for:

(a) border checks;

(b) other police and customs checks carried out within the country, and the coordination of such checks.

2. In addition, access to data entered in accordance with Article 96 and the right to search such data directly may be exercised by the authorities responsible for issuing visas, the central authorities responsible for examining visa applications and the authorities responsible for issuing residence permits and for the administration of legislation on aliens in the context of the application of the provisions of this Convention relating to the movement of persons. Access to data shall be governed by the national law of each Contracting Party.

3. Users may only search data which they require for the performance of their tasks.

4. Each Contracting Party shall send the Executive Committee a list of competent authorities which are authorised to search the data contained in the Schengen Information System directly. That list shall specify, for each authority, which data it may search and for what purposes.

CHAPTER 3

PROTECTION OF PERSONAL DATA AND SECURITY OF DATA IN THE SCHENGEN INFORMATION SYSTEM

Article 102

1. The Contracting Parties may use the data provided for in Articles 95 to 100 only for the purposes laid down for each category of alert referred to in those Articles.

2. Data may only be copied for technical purposes, provided that such copying is necessary in order for the authorities referred to in Article 101 to carry out a direct search. Alerts issued by other Contracting Parties may not be copied from the national section of the Schengen Information System into other national data files.

3. With regard to the alerts laid down in Articles 95 to 100 of this Convention, any derogation from paragraph 1 in order to change from one category of alert to another must be justified by the need to prevent an imminent serious threat to public policy and public security, on serious grounds of national security or for the purposes of preventing a serious criminal offence. Prior authorisation from the Contracting Party issuing the alert must be obtained for this purpose.

4. Data may not be used for administrative purposes. By way of derogation, data entered under Article 96 may be used in accordance with the national law of each Contracting Party for the purposes of Article 101(2) only.

5. Any use of data which does not comply with paragraphs 1 to 4 shall be considered as misuse under the national law of each Contracting Party.

Article 103

Each Contracting Party shall ensure that, on average, every 10th transmission of personal data is recorded in the national section of the Schengen Information System by the data file management authority for the purposes of checking whether the search is admissible or not. The record may only be used for this purpose and shall be deleted after six months.

Article 104

1. Alerts shall be governed by the national law of the Contracting Party issuing the alert unless more stringent conditions are laid down in this Convention.

2. In so far as this Convention does not lay down specific provisions, the law of each Contracting Party shall apply to data entered in its national section of the Schengen Information System.

3. In so far as this Convention does not lay down specific provisions concerning performance of the action requested in the alert, the national law of the requested Contracting Party performing the action shall apply. In so far as this Convention lays down specific provisions concerning performance of the action requested in the alert, responsibility for that action shall be governed by

the national law of the requested Contracting Party. If the requested action cannot be performed, the requested Contracting Party shall immediately inform the Contracting Party issuing the alert.

Article 105

The Contracting Party issuing the alert shall be responsible for ensuring that the data entered into the Schengen Information System is accurate, up-to-date and lawful.

Article 106

1. Only the Contracting Party issuing the alert shall be authorised to modify, add to, correct or delete data which it has entered.

2. If one of the Contracting Parties which has not issued the alert has evidence suggesting that an item of data is factually incorrect or has been unlawfully stored, it shall advise the Contracting Party issuing the alert thereof as soon as possible; the latter shall be obliged to check the communication and, if necessary, correct or delete the item in question immediately.

3. If the Contracting Parties are unable to reach agreement, the Contracting Party which did not issue the alert shall submit the case to the joint supervisory authority referred to in Article 115(1) for its opinion.

Article 107

Where a person is already the subject of an alert in the Schengen Information System, a Contracting Party which enters a further alert shall reach agreement on the entry of the alert with the Contracting Party which entered the first alert. The Contracting Parties may also lay down general provisions to this end.

Article 108

1. Each Contracting Party shall designate an authority which shall have central responsibility for its national section of the Schengen Information System.

2. Each Contracting Party shall issue its alerts via that authority.

3. The said authority shall be responsible for the smooth operation of the national section of the Schengen Information System and shall take the necessary measures to ensure compliance with the provisions of this Convention.

4. The Contracting Parties shall inform one another, via the depositary, of the authority referred to in paragraph 1.

Article 109

1. The right of persons to have access to data entered in the Schengen Information System which relate to them shall be exercised in accordance with the law of the Contracting Party before which they invoke that right. If national law so provides, the national supervisory authority provided for in Article 114(1) shall decide whether information shall be communicated and by what procedures. A Contracting Party which has not issued the alert may communicate information concerning such

data only if it has previously given the Contracting Party issuing the alert an opportunity to state its position.

2. Communication of information to the data subject shall be refused if this is indispensable for the performance of a lawful task in connection with the alert or for the protection of the rights and freedoms of third parties. In any event, it shall be refused throughout the period of validity of an alert for the purpose of discreet surveillance.

Article 110

Any person may have factually inaccurate data relating to them corrected or unlawfully stored data relating to them deleted.

Article 111

1. Any person may, in the territory of each Contracting Party, bring before the courts or the authority competent under national law an action to correct, delete or obtain information or to obtain compensation in connection with an alert involving them.

2. The Contracting Parties undertake mutually to enforce final decisions taken by the courts or authorities referred to in paragraph 1, without prejudice to the provisions of Article 116.

Article 112

1. Personal data entered into the Schengen Information System for the purposes of tracing persons shall be kept only for the time required to meet the purposes for which they were supplied. The Contracting Party which issued the alert must review the need for continued storage of such data not later than three years after they were entered. The period shall be one year in the case of the alerts referred to in Article 99.

2. Each Contracting Party shall, where appropriate, set shorter review periods in accordance with its national law.

3. The technical support function of the Schengen Information System shall automatically inform the Contracting Parties of scheduled deletion of data from the system one month in advance.

4. The Contracting Party issuing the alert may, within the review period, decide to keep the alert should this prove necessary for the purposes for which the alert was issued. Any extension of the alert must be communicated to the technical support function. The provisions of paragraph 1 shall apply to the extended alert.

Article 113

1. Data other than that referred to in Article 112 shall be kept for a maximum of 10 years, data on issued identity papers and suspect banknotes for a maximum of five years and data on motor vehicles, trailers and caravans for a maximum of three years.

2. Data which have been deleted shall be kept for one year in the technical support function. During that period they may only be consulted for subsequent checking as to their accuracy and as to whether the data were entered lawfully. Afterwards they must be destroyed.

Article 114

1. Each Contracting Party shall designate a supervisory authority responsible in accordance with national law for carrying out independent supervision of the data file of the national section of the Schengen Information System and for checking that the processing and use of data entered in the Schengen Information System does not violate the rights of the data subject. For this purpose, the supervisory authority shall have access to the data file of the national section of the Schengen Information System.

2. Any person shall have the right to ask the supervisory authorities to check data entered in the Schengen Information System which concern them and the use made of such data. That right shall be governed by the national law of the Contracting Party to which the request is made. If the data have been entered by another Contracting Party, the check shall be carried out in close coordination with that Contracting Party's supervisory authority.

Article 115

1. A joint supervisory authority shall be set up and shall be responsible for supervising the technical support function of the Schengen Information System. This authority shall consist of two representatives from each national supervisory authority. Each Contracting Party shall have one vote. Supervision shall be carried out in accordance with the provisions of this Convention, the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to the Automatic Processing of Personal Data, taking into account Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe regulating the use of personal data in the police sector, and in accordance with the national law of the Contracting Party responsible for the technical support function.

2. As regards the technical support function of the Schengen Information System, the joint supervisory authority shall have the task of checking that the provisions of this Convention are properly implemented. For that purpose, it shall have access to the technical support function.

3. The joint supervisory authority shall also be responsible for examining any difficulties of application or interpretation that may arise during the operation of the Schengen Information System, for studying any problems that may occur with the exercise of independent supervision by the national supervisory authorities of the Contracting Parties or in the exercise of the right of access to the system, and for drawing up harmonised proposals for joint solutions to existing problems.

4. Reports drawn up by the joint supervisory authority shall be submitted to the authorities to which the national supervisory authorities submit their reports.

Article 116

1. Each Contracting Party shall be liable in accordance with its national law for any injury caused to a person through the use of the national data file of the Schengen Information System. This shall also apply to injury caused by the Contracting Party which issued the alert, where the latter entered factually inaccurate data or stored data unlawfully.

2. If the Contracting Party against which an action is brought is not the Contracting Party issuing the alert, the latter shall be required to reimburse, on request, the sums paid out as compensation unless the data were used by the requested Contracting Party in breach of this Convention.

Article 117

1. As regards the automatic processing of personal data communicated pursuant to this Title, each Contracting Party shall, no later than the date of entry into force of this Convention, adopt the necessary national provisions in order to achieve a level of protection of personal data at least equal to that resulting from the principles laid down in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981 and in accordance with Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe regulating the use of personal data in the police sector.

2. The communication of personal data provided for in this Title may not take place until the provisions for the protection of personal data as specified in paragraph 1 have entered into force in the territories of the Contracting Parties involved in such communication.

Article 118

1. Each Contracting Party undertakes, in relation to its national section of the Schengen Information System, to adopt the necessary measures in order to:

(a) deny unauthorised persons access to data-processing equipment used for processing personal data (equipment access control);

(b) prevent the unauthorised reading, copying, modification or removal of data media (data media control);

(c) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data (storage control);

(d) prevent the use of automated data-processing systems by unauthorised persons using data communication equipment (user control);

(e) ensure that persons authorised to use an automated data-processing system only have access to the data covered by their access authorisation (data access control);

(f) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment (communication control);

(g) ensure that it is subsequently possible to verify and establish which personal data have been input into automated data-processing systems and when and by whom the data were input (input control);

(h) prevent the unauthorised reading, copying, modification or deletion of personal data during transfers of personal data or during transportation of data media (transport control).

2. Each Contracting Party must take special measures to ensure the security of data while they are being communicated to services located outside the territories of the Contracting Parties. Such measures must be notified to the joint supervisory authority.

3. For the processing of data in its national section of the Schengen Information System each Contracting Party may appoint only specially qualified persons who have undergone security checks.

4. The Contracting Party responsible for the technical support function of the Schengen Information System shall adopt the measures laid down in paragraphs 1 to 3 in respect of that function.

CHAPTER 4

APPORTIONMENT OF THE COSTS OF THE SCHENGEN INFORMATION SYSTEM

Article 119

1. The costs of installing and operating the technical support function referred to in Article 92(3), including the cost of lines connecting the national sections of the Schengen Information System to the technical support function, shall be borne jointly by the Contracting Parties. Each Contracting Party's share shall be determined on the basis of the rate for each Contracting Party applied to the uniform basis of assessment of value added tax within the meaning of Article 2(1)(c) of the Decision of the Council of the European Communities of 24 June 1988 on the system of the Communities' own resources.

2. The costs of installing and operating the national section of the Schengen Information System shall be borne by each Contracting Party individually.

TITLE V

TRANSPORT AND MOVEMENT OF GOODS

Article 120

1. The Contracting Parties shall jointly ensure that their laws, regulations or administrative provisions do not unjustifiably impede the movement of goods at internal borders.

2. The Contracting Parties shall facilitate the movement of goods across internal borders by carrying out formalities relating to prohibitions and restrictions when goods are cleared through customs for home use. Such customs clearance may, at the discretion of the Party concerned, be conducted either within the country or at the internal borders. The Contracting Parties shall endeavour to encourage customs clearance within the country.

3. In so far as it is not possible in certain fields to achieve the simplifications referred to in paragraph 2 in whole or in part, the Contracting Parties shall endeavour either to create the conditions therefor amongst themselves or to do so within the framework of the European Communities.

This paragraph shall apply in particular to monitoring compliance with rules on commercial transport permits, roadworthiness of means of transport, veterinary inspections and animal health checks, veterinary checks on health and hygiene, including meat inspections, plant health inspections and monitoring the transportation of dangerous goods and hazardous waste.

4. The Contracting Parties shall endeavour to harmonise formalities governing the movement of goods across external borders and to monitor compliance therewith according to uniform principles. The Contracting Parties shall, to this end, work closely together within the Executive Committee in the framework of the European Communities and other international forums.

Article 121

1. In accordance with Community law, the Contracting Parties shall waive, for certain types of plant and plant products, the plant health inspections and presentation of plant health certificates required under Community law.

The Executive Committee shall adopt the list of plants and plant products to which the simplification specified in the first subparagraph shall apply. It may amend this list and shall fix the date of entry into force for such amendments. The Contracting Parties shall inform each other of the measures taken.

2. Should there be a danger of harmful organisms being introduced or propagated, a Contracting Party may request the temporary reinstatement of the control measures laid down in Community law and may implement those measures. It shall immediately inform the other Contracting Parties thereof in writing, giving the reasons for its decision.

3. Plant health certificates may continue to be used as the certificate required under the law on the protection of species.

4. The competent authority shall, upon request, issue a plant health certificate when a consignment is intended in whole or in part for re-export in so far as plant health requirements are met for the plants or plant products concerned.

Article 122

1. The Contracting Parties shall step up their cooperation with a view to ensuring the safe transportation of hazardous goods and undertake to harmonise their national provisions adopted pursuant to international Conventions in force. In addition, they undertake, particularly with a view to maintaining the existing level of safety, to:

(a) harmonise their requirements with regard to the vocational qualifications of drivers;

(b) harmonise the procedures for and the intensity of checks conducted during transportation and within undertakings;

(c) harmonise the classification of offences and the legal provisions concerning the relevant penalties;

(d) ensure a permanent exchange of information and experience with regard to the measures implemented and the checks carried out.

2. The Contracting Parties shall step up their cooperation with a view to conducting checks on transfers of hazardous and non-hazardous waste across internal borders.

To this end, they shall endeavour to adopt a common position regarding the amendment of Community Directives on the monitoring and management of transfers of hazardous waste and regarding the introduction of Community acts on non-hazardous waste, with the aim of setting up an adequate infrastructure for its disposal and of introducing waste disposal standards harmonised at a high level.

Pending Community rules on non-hazardous waste, checks on transfers of such waste shall be conducted on the basis of a special procedure whereby transfers may be checked at the point of destination during clearance procedures.

The second sentence of paragraph 1 shall also apply to this paragraph.

Article 123

1. The Contracting Parties undertake to consult each other for the purposes of abolishing among themselves the current requirement to produce a licence for the export of strategic industrial products and technologies, and to replace such a licence, if necessary, by a flexible procedure in cases where the countries of first and final destination are Contracting Parties.

Subject to such consultations, and in order to guarantee the effectiveness of such checks as may prove necessary, the Contracting Parties shall, by cooperating closely through a coordinating mechanism, endeavour to exchange relevant information, while taking account of national law.

2. With regard to products other than the strategic industrial products and technologies referred to in paragraph 1, the Contracting Parties shall endeavour, on the one hand, to have export formalities carried out within the country and, on the other, to harmonise their control procedures.

3. In pursuit of the objectives set out in paragraphs 1 and 2, the Contracting Parties shall consult the other partners concerned.

Article 124

The number and intensity of checks on goods carried by travellers when crossing internal borders shall be reduced to the lowest level possible. Further reductions in and the final abolition of such checks will depend on the gradual increase in travellers' duty-free allowances and on future developments in the rules applicable to the cross-border movement of travellers.

Article 125

1. The Contracting Parties shall conclude arrangements on the secondment of liaison officers from their customs administrations.

2. The secondment of liaison officers shall have the general purposes of promoting and accelerating cooperation between the Contracting Parties, in particular under existing Conventions and Community acts on mutual assistance.

3. The task of liaison officers shall be to advise and to provide assistance. They shall not be authorised to take customs administration measures on their own initiative. They shall provide information and shall perform their duties in accordance with the instructions given to them by the seconding Contracting Party.

TITLE VI

PROTECTION OF PERSONAL DATA

Article 126

1. As regards the automatic processing of personal data communicated pursuant to this Convention, each Contracting Party shall, no later than the date of entry into force of this Convention, adopt the necessary national provisions in order to achieve a level of protection of personal data at least equal

to that resulting from the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981.

2. The communication of personal data provided for in this Convention may not take place until the provisions for the protection of personal data as specified in paragraph 1 have entered into force in the territories of the Contracting Parties involved in such communication.

3. In addition, the following provisions shall apply to the automatic processing of personal data communicated pursuant to this Convention:

(a) such data may be used by the recipient Contracting Party solely for the purposes for which this Convention stipulates that they may be communicated; such data may be used for other purposes only with the prior authorisation of the Contracting Party communicating the data and in accordance with the law of the recipient Contracting Party; such authorisation may be granted in so far as the national law of the Contracting Party communicating the data so permits;

(b) such data may be used only by the judicial authorities and the departments and authorities carrying out tasks or performing duties in connection with the purposes referred to in paragraph (a);

(c) the Contracting Party communicating such data shall be obliged to ensure the accuracy thereof; should it establish, either on its own initiative or further to a request by the data subject, that data have been provided that are inaccurate or should not have been communicated, the recipient Contracting Party or Parties must be immediately informed thereof; the latter Party or Parties shall be obliged to correct or destroy the data, or to indicate that the data are inaccurate or were unlawfully communicated;

(d) a Contracting Party may not plead that another Contracting Party communicated inaccurate data, in order to avoid its liability under its national law vis-à-vis an injured party; if damages are awarded against the recipient Contracting Party because of its use of inaccurate communicated data, the Contracting Party which communicated the data shall refund in full to the recipient Contracting Party the amount paid in damages;

(e) the transmission and receipt of personal data must be recorded both in the source data file and in the data file in which they are entered;

(f) the joint supervisory authority referred to in Article 115 may, at the request of one of the Contracting Parties, deliver an opinion on the difficulties of implementing and interpreting this Article.

4. This Article shall not apply to the communication of data provided for under Chapter 7 of Title II and Title IV. Paragraph 3 shall not apply to the communication of data provided for under Chapters 2 to 5 of Title III.

Article 127

1. Where personal data are communicated to another Contracting Party pursuant to the provisions of this Convention, Article 126 shall apply to the communication of the data from a non-automated data file and to their inclusion in another non-automated data file.

2. Where, in cases other than those governed by Article 126(1), or paragraph 1 of this Article, personal data are communicated to another Contracting Party pursuant to this Convention, Article

126(3), with the exception of subparagraph (e), shall apply. The following provisions shall also apply:

(a) a written record shall be kept of the transmission and receipt of personal data; this obligation shall not apply where such a record is not necessary given the use of the data, in particular if they are not used or are used only very briefly;

(b) the recipient Contracting Party shall ensure, in the use of communicated data, a level of protection at least equal to that laid down in its national law for the use of similar data;

(c) the decision concerning whether and under what conditions the data subject shall, at his request, be provided information concerning communicated data relating to him shall be governed by the national law of the Contracting Party to which the request was addressed.

3. This Article shall not apply to the communication of data provided for under Chapter 7 of Title II, Chapters 2 to 5 of Title III, and Title IV.

Article 128

1. The communication of personal data provided for by this Convention may not take place until the Contracting Parties involved in that communication have instructed a national supervisory authority to monitor independently that the processing of personal data in data files complies with Articles 126 and 127 and the provisions adopted for their implementation.

2. Where the Contracting Party has, in accordance with its national law, instructed a supervisory authority to monitor independently, in one or more areas, compliance with the provisions on the protection of personal data not entered in a data file, that Contracting Party shall instruct the same authority to supervise compliance with the provisions of this Title in the areas concerned.

3. This Article shall not apply to the communication of data provided for under Chapter 7 of Title II and Chapters 2 to 5 of Title III.

Article 129

As regards the communication of personal data pursuant to Chapter 1 of Title III, the Contracting Parties undertake, without prejudice to Articles 126 and 127, to achieve a level of protection of personal data which complies with the principles of Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe regulating the use of personal data in the police sector. In addition, as regards the communication of data pursuant to Article 46, the following provisions shall apply:

(a) the data may be used by the recipient Contracting Party solely for the purposes indicated by the Contracting Party which provided the data and in compliance with the conditions laid down by that Contracting Party;

(b) the data may be communicated to police forces and authorities only; data may not be communicated to other authorities without the prior authorisation of the Contracting Party which provided them;

(c) the recipient Contracting Party shall, upon request, inform the Contracting Party which provided the data of the use made of the data and the results thus obtained.

Article 130

If personal data are communicated via a liaison officer as referred to in Article 47 or Article 125, the provisions of this title shall not apply unless the liaison officer communicates such data to the Contracting Party which seconded the officer to the territory of the other Contracting Party.

TITLE VII

EXECUTIVE COMMITTEE

Article 131

1. An Executive Committee shall be set up for the purposes of implementing this Convention.

2. Without prejudice to the special powers conferred upon it by this Convention, the overall task of the Executive Committee shall be to ensure that this Convention is implemented correctly.

Article 132

1. Each Contracting Party shall have one seat on the Executive Committee. The Contracting Parties shall be represented on the Committee by a Minister responsible for the implementation of this Convention; that Minister may, if necessary, be assisted by experts, who may participate in the deliberations.

2. The Executive Committee shall take its decisions unanimously. It shall draw up its own rules of procedure; in this connection it may provide for a written decision-making procedure.

3. At the request of the representative of a Contracting Party, the final decision on a draft on which the Executive Committee has acted may be postponed for no more than two months from the date of submission of that draft.

4. The Executive Committee may set up working parties composed of representatives of the administrations of the Contracting Parties in order to prepare decisions or to carry out other tasks.

Article 133

The Executive Committee shall meet in the territory of each Contracting Party in turn. It shall meet as often as is necessary for it to discharge its duties properly.

TITLE VIII

FINAL PROVISIONS

Article 134

The provisions of this Convention shall apply only in so far as they are compatible with Community law.

Article 135

The provisions of this Convention shall apply subject to the provisions of the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967.

Article 136

1. A Contracting Party which envisages conducting negotiations on border checks with a third State shall inform the other Contracting Parties thereof in good time.

2. No Contracting Party shall conclude with one or more third States agreements simplifying or abolishing border checks without the prior agreement of the other Contracting Parties, subject to the right of the Member States of the European Communities to conclude such agreements jointly.

3. Paragraph 2 shall not apply to agreements on local border traffic in so far as those agreements comply with the exceptions and arrangements adopted under Article 3(1).

Article 137

This Convention shall not be the subject of any reservations, save for those referred to in Article 60.

Article 138

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

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

Article 139

1. This Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Grand Duchy of Luxembourg, which shall notify all the Contracting Parties thereof.

2. This Convention shall enter into force on the first day of the second month following the deposit of the final instrument of ratification, acceptance or approval. The provisions concerning the setting up, activities and powers of the Executive Committee shall apply as from the entry into force of this Convention. The other provisions shall apply as from the first day of the third month following the entry into force of this Convention.

3. The Government of the Grand Duchy of Luxembourg shall notify all the Contracting Parties of the date of entry into force.

Article 140

1. Any Member State of the European Communities may become a Party to this Convention. Accession shall be the subject of an agreement between that State and the Contracting Parties.

2. Such an agreement shall be subject to ratification, acceptance or approval by the acceding State and by each of the Contracting Parties. It shall enter into force on the first day of the second month following the deposit of the final instrument of ratification, acceptance or approval.

Article 141

1. Any Contracting Party may submit to the depositary a proposal to amend this Convention. The depositary shall forward that proposal to the other Contracting Parties. At the request of one Contracting Party, the Contracting Parties shall re-examine the provisions of the Convention if, in their opinion, there has been a fundamental change in the conditions obtaining when the Convention entered into force.

2. The Contracting Parties shall adopt amendments to this Convention by common consent.

3. Amendments shall enter into force on the first day of the second month following the date of deposit of the final instrument of ratification, acceptance or approval.

Article 142

1. When Conventions are concluded between the Member States of the European Communities with a view to the completion of an area without internal frontiers, the Contracting Parties shall agree on the conditions under which the provisions of this Convention are to be replaced or amended in the light of the corresponding provisions of such Conventions.

The Contracting Parties shall, to that end, take account of the fact that the provisions of this Convention may provide for more extensive cooperation than that resulting from the provisions of the said Conventions.

Provisions which conflict with those agreed between the Member States of the European Communities shall in any case be adapted.

2. Amendments to this Convention which are deemed necessary by the Contracting Parties shall be subject to ratification, acceptance or approval. The provision contained in Article 141(3) shall apply on the understanding that the amendments will not enter into force before the said Conventions between the Member States of the European Communities enter into force.

In witness whereof, the undersigned, duly empowered to this effect, have hereunto set their hands.

Done at Schengen, this nineteenth day of June in the year one thousand nine hundred and ninety, in a single original in the Dutch, French and German languages, all three texts being equally authentic, such original remaining deposited in the archives of the Government of the Grand Duchy of Luxembourg, which shall transmit a certified copy to each of the Contracting Parties.

For the Government of the Kingdom of Belgium

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For the Government of the Federal Republic of Germany

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For the Government of' the French Republic

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For the Government of the Grand Duchy of Luxembourg

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For the Government of the Kingdom of the Netherlands

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(1) Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol amending the 1961 Single Convention on Narcotic Drugs; the 1971 Convention on Psychotropic Substances; the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988.

FINAL ACT

At the time of signing the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, the Contracting Parties have adopted the following declarations:

1. Joint Declaration on Article 139

The Signatory States shall, prior to the entry into force of the Convention, inform each other of all circumstances that could have a significant bearing on the areas covered by this Convention and the bringing into force thereof.

The Convention shall not be brought into force until the preconditions for its implementation have been fulfilled in the Signatory States and checks at external borders are effective.

2. Joint Declaration on Article 4

The Contracting Parties undertake to make every effort to comply simultaneously with this deadline and to preclude any shortcomings in security. Before 31 December 1992, the Executive Committee shall examine what progress has been made. The Kingdom of the Netherlands stresses that difficulties in meeting the deadline in a particular airport cannot be excluded but that this will not give rise to any shortcomings in security. The other Contracting Parties will take account of this situation although this may not be allowed to entail difficulties for the internal market.

In the event of difficulties, the Executive Committee shall examine how best to achieve the simultaneous implementation of these measures at airports.

3. Joint Declaration on Article 71(2)

In so far as a Contracting Party departs from the principle referred to in Article 71(2) in connection with its national policy on the prevention and treatment of addiction to narcotic drugs and psychotropic substances, all Contracting Parties shall adopt the necessary administrative measures and penal measures to prevent and punish the illicit import and export of such products and substances, particularly towards the territories of the other Contracting Parties.

4. Joint Declaration on Article 121

In accordance with Community law, the Contracting Parties shall waive the plant health inspections and presentation of plant health certificates required under Community law for the types of plant and plant products:

(a) listed under 1, or

(b) listed under 2 to 6 and originating in one of the Contracting Parties:

(1) Cut flowers and parts of plants suitable for ornamental purposes of:

Castanea

Chrysanthemum

Dendranthema

Dianthus

Gladiolus

Gypsophila

Prunus

Quercus

Rosa

Salix

Syringa

Vitis.

(2) Fresh fruit of:

Citrus

Cydonia

Malus

Prunus

Pyrus.

(3) Wood of:

Castanea

Quercus.

(4) Growing medium constituted wholly or in part of earth or solid organic matter such as parts of plants, turf and bark with humus, but not constituted entirely of turf.

(5) Seeds.

(6)

>TABLE>

5. Joint Declaration on national asylum policies

The Contracting Parties shall draw up an inventory of national asylum policies with a view to the harmonisation thereof.

6. Joint Declaration on Article 132

The Contracting Parties shall inform their national Parliaments of the implementation of this Convention.

Done at Schengen, this nineteenth day of June in the year one thousand nine hundred and ninety, in a single original, in the Dutch, French and German languages, all three texts being equally authentic, such original remaining deposited in the archives of the Government of the Grand Duchy of Luxembourg, which shall transmit a certified copy to each of the Contracting Parties.

For the Government of the Kingdom of Belgium

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For the Government of the Federal Republic of Germany

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For the Government of the French Republic

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For the Government of the Grand Duchy of Luxembourg

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For the Government of the Kingdom of the Netherlands

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Minutes

Further to the Final Act of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, the Contracting Parties have adopted the following joint statement and taken note of the following unilateral declarations made in respect of the said Convention:

I. Declaration on the scope of the Convention

The Contracting Parties note that, after the unification of the two German States, the scope of the Convention shall under international law also extend to the current territory of the German Democratic Republic.

II. Declarations by the Federal Republic of Germany on the interpretation of the Convention

1. The Convention has been concluded in the light of the prospective unification of the two German States.

The German Democratic Republic is not a foreign country in relation to the Federal Republic of Germany.

Article 136 shall not apply in relations between the Federal Republic of Germany and the German Democratic Republic.

2. This Convention shall be without prejudice to the arrangements agreed in the Germano-Austrian exchange of letters of 20 August 1984 simplifying checks at their common borders for nationals of both States. Such arrangements will however have to be implemented in the light of the overriding security and immigration requirements of the Schengen Contracting Parties so that such facilities will in practice be restricted to Austrian nationals.

III. Declaration by the Kingdom of Belgium on Article 67

The procedure which will be implemented internally for the transfer of the enforcement of foreign criminal judgments will not be that specified under Belgian law for the transfer of sentenced persons between States, but rather a special procedure which will be determined when this Convention is ratified.

Done at Schengen, this nineteenth day of June in the year one thousand nine hundred and ninety, in a single original, in the Dutch, French and German languages, all three texts being equally authentic, such original remaining deposited in the archives of the Government of the Grand Duchy of Luxembourg, which shall transmit a certified copy to each of the Contracting Parties.

For the Government of the Kingdom of Belgium

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For the Government of the Federal Republic of Germany

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For the Government of the French Republic

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For the Government of the Grand Duchy of Luxembourg

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For the Government of the Kingdom of the Netherlands

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JOINT DECLARATION

BY THE MINISTERS AND STATE SECRETARIES MEETING IN SCHENGEN ON 19 JUNE 1990

The Governments of the Contracting Parties to the Schengen Agreement will open or continue discussions in particular in the following areas:

- improving and simplifying extradition practices,

- improving cooperation on bringing proceedings against road traffic offences,

- arrangements for the mutual recognition of disqualifications from driving motor vehicles,

- possibilities of reciprocal enforcement of fines,

- introduction of rules on reciprocal transfers of criminal proceedings including the possibility of transferring the accused person to that person's country of origin,

- introduction of rules on the repatriation of minors who have been unlawfully removed from the authority of the person responsible for exercising parental authority,

- further simplification of checks on commercial movements of goods.

Done at Schengen, this nineteenth day of June in the year one thousand nine hundred and ninety, in a single original, in the Dutch, French and German languages, all three texts being equally authentic, such original remaining deposited in the archives of the Government of the Grand Duchy of Luxembourg, which shall transmit a certified copy to each of the Contracting Parties.

For the Government of the Kingdom of Belgium

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For the Government of the Federal Republic of Germany

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For the Government of the French Republic

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For the Government of the Grand Duchy of Luxembourg

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For the Government of the Kingdom of the Netherlands

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DECLARATION BY THE MINISTERS AND STATE SECRETARIES

On 19 June 1990 representatives of the Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands signed at Schengen, in the Grand Duchy of Luxembourg, the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

At the time of signing that Convention, they adopted the following declarations:

- The Contracting Parties consider that the Convention constitutes an important step towards creating an area without internal borders and take it as a basis for further activities amongst the Member States of the European Communities.

- In view of the risks in the fields of security and illegal immigration, the Ministers and State Secretaries underline the need for effective external border controls in accordance with the uniform principles laid down in Article 6. With a view to implementing those uniform principles, the Contracting Parties must, in particular, promote the harmonisation of working methods for border control and surveillance.

Moreover, the Executive Committee will examine all relevant measures with a view to establishing uniform and effective external border controls and the practical implementation thereof. Such measures will include measures making it possible to ascertain the circumstances under which a third-country national has entered the territories of the Contracting Parties, application of the same procedures for refusing entry, the drafting of a common manual for the officials responsible for border surveillance and encouragement of an equivalent level of external border control by means of exchanges and joint working visits.

At the time of signing that Convention, they also confirmed the Central Negotiating Group's decision to set up a working party with the following mandate:

- to inform the Central Negotiating Group before the entry into force of the Convention of all circumstances that have a significant bearing on the areas covered by the Convention and on its entry into force, in particular the progress achieved in harmonising legal provisions in connection with the unification of the two German States,

- to consult each other on any impact that that harmonisation and those circumstances may have on the implementation of the Convention,

- with a view to the movement of aliens exempt from the visa requirement, to devise practical measures and put forward proposals before the entry into force of the Convention for harmonising procedures for carrying out controls on persons at the future external borders.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 May 1999

concerning the definition of the Schengen acquis for the purpose of determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the acquis

(1999/435/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Acting on the basis of Article 2(1), second subparagraph, first sentence, of the Protocol annexed to the Treaty on European Union and the Treaty establishing the European Community, integrating the Schengen acquis into the framework of the European Union (hereinafter referred to as 'the Schengen Protocol'),

(1) Whereas it is necessary to define the Schengen acquis in order to allow the Council to determine, in conformity with the relevant provision of the Treaties, legal bases for each of the provisions of the Schengen acquis;

(2) Whereas the determination of legal bases in necessary only in respect of those binding provisions or decisions constituting the Schengen acquis which are still operative;

(3) Whereas the Council must therefore establish for which provisions or decisions constituting the Schengen acquis it is not necessary to determine a legal basis in conformity with the relevant provision of the Treaties;

(4) Whereas the conclusion that for certain provisions of the Schengen acquis it is not necessary or appropriate for the Council to determine a legal basis in conformity with the relevant provisions of the Treaties may be justified on the following grounds:

(a) The provision does not have any binding legal force, and a comparable provision can be adopted by the Council only on the basis of an instrument that has not legal basis in one of the Treaties.

(b) The passage of time and/or events have rendered the provision redundant.

(c) The provision relates to institutional rules which are regarded as being superseded by European Union procedures.

(d) The subject matter of the provision is covered by — and therefore superseded by — existing European Community or Union legislation or by a legal act adopted by all Member States.

(e) The provision has been made redundant by the Agreement to be concluded with the Republic of Iceland and the Kingdom of Norway pursuant to Article 6 of the Schengen Protocol.

(f) The provision concerns an area covered neither by the activity of the Community nor by the aims of the European Union and thus concerns one of those areas in which the Member States have retained freedom to act. This includes provisions which may be significant only for the purposes of calculating financial claims of or between the Member States concerned;

(5) Even if on one of these grounds it is not necessary or not appropriate for the Council to establish legal bases for certain provisions of the Schengen acquis, this does not have the effect of rendering them redundant or depriving them of legal validity. The legal effects of acts still in force which were adopted on the basis of such provisions are not affected;

(6) The rights and duties of Denmark are governed by Article 3 of the Protocol integrating the Schengen acquis into the framework of the European Union and in Articles 1 to 5 of the Protocol on the position of Denmark,

HAS DECIDED AS FOLLOWS:

Article 1

1. In accordance with the Annex to the Protocol integrating the Schengen acquis into the framework of the European Union, the Schengen acquis comprises all the acts listed in Annex A to this Decision.

2. The Schengen acquis, as referred to in paragraph 1, shall be published in the *Official Journal of the European Communities*, with the exception of those of its provisions listed in Article 2 and those provisions which at the time of the adoption of this Decision are classified as 'confidential' by the Schengen Executive Committee.

3. The Council shall retain the right also to publish other parts of the Schengen acquis in the Official Journal at a later date, in particular provisions the publication of which appears necessary in the general interest, or which the Council considers important for the interpretation of the Schengen acquis.

Article 2

It shall not be necessary for the Council, acting on the basis of Article 2(1), second subparagraph, second sentence, of the Schengen Protocol, to determine, in conformity with the relevant provisions of the Treaties, a legal basis for the following provisions and decisions constituting part of the Schengen acquis:

(a) the provisions of the Convention, signed in Schengen on 19 June 1990, between the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, implementing the Schengen Agreement and its related Final Act and declarations ('the Schengen Convention') which are listed in Part 1 of Annex B;

(b) the provisions of the Accession Agreements and Protocols to the Schengen Agreement and to the Schengen Convention with the Italian Republic (signed in Paris on 27 November 1990), the Kingdom of Spain and the Portuguese Republic (signed in Bonn on 25 June 1991), the Hellenic Republic (signed in Madrid on 6 November 1992), the Republic of Austria (signed in Brussels on 28 April 1995) and the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden (signed in Luxembourg on 19 December 1996) which are listed in Part 2 of Annex B;

(c) the decisions and declarations of the Executive Committee established by the Schengen Convention which are listed in Part 3 of Annex B;

(d) the decisions of the Central Group which the Group has been authorised to take by the Executive Committee and which are listed in Part 3 of Annex B.

Article 3

This Decision shall have immediate effect.

It shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 20 May 1999.

For the Council

The President

E. BULMAHN

ANNEX A

Article 1

SCHENGEN ACQUIS

1. The Agreement, signed in Schengen on 14 June 1985, between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

2. The Convention, signed in Schengen on 19 June 1990, between the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, implementing the Agreement on the gradual aboliton of checks at their common borders, signed in Schengen on 14 June 1985, with related Final Act and common declarations.

3. The Accession Protocols and Agreements to the 1985 Agreement and the 1990 implementing Convention with Italy (signed in Paris on 27 November 1990), Spain and Portugal (signed in Bonn on 25 June 1991), Greece (signed in Madrid on 6 November 1992), Austria (signed in Brussels on 28 April 1995) and Denmark, Finland and Sweden (signed in Luxembourg on 19 December 1996), with related Final Acts and declarations.

4. Decisons and declarations of the Schengen Executive Committee.

5. Decisions of the Central Group which the Group has been authorised to take by the Executive Committee.

Decisions

SCH/Com-ex (93) 3 14.12.1993	Administrative and Financial Arrangements GENERAL SECRETARIAT
SCH/Com-ex (93) 9 14.12.1993	Confirmation of the declarations by the Ministers and Secretaries of State on drugs and psychotropic substances DRUGS — JUDICIAL COOPERATION
SCH/Com-ex (93) 10 14.12.1993	Confirmation of the declarations by the Ministers and Secretaries of State of 19 June 1992 and 30 June 1993 on bringing into force of the implementing Convention ENTRY INTO FORCE
SCH/Com-ex (93) 11 14.12.1993	Confirmation of the declarations by the Ministers and Secretaries of State ENTRY INTO FORCE
SCH/Com-ex (93) 14 14.12.1993	Improving practical cooperation between the judicial authorities to combat drug trafficking DRUGS — JUDICIAL COOPERATION
SCH/Com-ex (93) 16 14.12.1993	Financial Regulations on the installation and operating costs for the Schengen — C.SIS SIS
SCH/Com-ex (93) 21 14.12.1993	Extending the uniform visa VISAS
SCH/Com-ex (93) 22 Rev 14.12.1993	Confidential nature of certain documents EXECUTIVE COMMITTEE
SCH/Com-ex (93) 24 14.12.1993	Common procedure for cancelling, rescinding or shortening the length of validity of the uniform visa VISAS
SCH/Com-ex (94) 1 Rev 2 26.4.1994	Adjustment measures aiming to remove the obstacles and restrictions on traffic flows at road border crossing points at internal borders INTERNAL BORDERS
SCH/Com-ex (94) 2 26.4.1994	Issuing uniform visas at the borders VISAS
SCH/Com-ex (94) 15 Rev 21.11.1994	Introducing a computerised procedure for consulting the central authorities provided for in Article 17(2) of the implementing Convention
SCH/Com-ex (94) 16 Rev 21.11.1994	Acquisition of common entry and exit stamps EXTERNAL BORDERS

SCH/Com-ex (94) 17 Rev 4 22.12.1994	Introducing and applying the Schengen system in airports and aerodromes AIRPORTS
SCH/Com-ex (94) 25 22.12.1994	Exchanges of statistical information on the issue of visas VISAS
SCH/Com-ex (94) 27 22.12.1994	Schengen 1993 accounts are approved and a discharge given to the Secretary-General of a Benelux Economic Union BUDGET — GENERAL SECRETARIAT
SCH/Com-ex (94) 28 Rev 22.12.1994	Certificate provided for in Article 75 for the transportation of drugs and/or psychotropic substances DRUGS
SCH/Com-ex (94) 29 Rev 2 22.12.1994	Bringing into force the Convention implementing the Schengen Agreement of 19 June 1990 ENTRY INTO FORCE
SCH/Com-ex (95) PV 1 Rev (Point No 8)	Common visa policy VISAS
SCH/Com-ex (95) 7 29.6.1995	The Executive Committee endorses the decision to use the Benelux General Secretariat for the award of the SIRENE Phase II contract SIS — SIRENE II
SCH/Com-ex (95) 20 Rev 2 20.12.1995	Approval of document SCH/I (95) 40 Rev 6 on the procedure for applying Article 2(2) of the implementing Convention INTERNAL BORDERS
SCH/Com-ex (95) 21 20.12.1995	Swift exchange between the Schengen States of statistical and tangible data on possible malfunctions at the external borders EXTERNAL BORDERS
SCH/Com-ex (96) 13 Rev 27.6.1996	Principles for issuing Schengen visas in accordance with Article 30(1)(a) of the implementing Convention VISAS
SCH/Com-ex (96) 15 Cor 2 27.6.1996	Amendment to the Financial and Administrative Arrangements GENERAL SECRETARIAT
SCH/Com-ex (96) 27 19.12.1996	Issuing visas at borders to seamen in transit VISAS
SCH/Com-ex (97) 2 Rev 2 25.4.1997	Awarding the tender for the SIS II preliminary study SIS
SCH/Com-ex (97) 6 Rev 2 24.6.1997	Schengen Manual on police cooperation in the field of public order and security POLICE COOPERATION
SCH/Com-ex (97) 14 7.10.1997	1995 Management Report on the implementation of the C.SIS installation and operating budget BUDGET — SIS
SCH/Com-ex (97) 17 Rev 15.12.1997	Distribution key for 1998/1999 SIS
SCH/Com-ex (97) 18 7.10.1997	Contributions from Norway and Iceland to the C.SIS operating costs SIS
SCH/Com-ex (97) 19 7.10.1997	C.SIS operating budget for 1998 BUDGET — SIS
SCH/Com-ex (97) 20 7.10.1997	Use of the uniform visa sticker by Norway and Iceland COOPERATION AGREEMENT
SCH/Com-ex (97) 22 Rev 15.12.1997	Budget for the Schengen Secretariat for 1998 BUDGET — SECRETARIAT

SCH/Com-ex (97) 24 7.10.1997	Future of the SIS SIS
SCH/Com-ex (97) 27 Rev 4 7.10.1997	Bringing into force the implementing Convention in Italy ENTRY INTO FORCE
SCH/Com-ex (97) 28 Rev 4 7.10.1997	Bringing into force the implementing Convention in Austria ENTRY INTO FORCE
SCH/Com-ex (97) 29 Rev 2 7.10.1997	Bringing into force the implementing Convention in Greece ENTRY INTO FORCE
SCH/Com-ex (97) 32 15.12.1997	Harmonisation of visa policy VISAS
SCH/Com-ex (97) 33 15.12.1997	Amendment to Article 18 of the Financial Regulations BUDGET
SCH/Com-ex (97) 34 Rev 15.12.1997	Implementation of the Joint Action on a uniform format for residence permits VISAS
SCH/Com-ex (97) 35 15.12.1997	Amendment to the C.SIS Financial Regulations SIS
SCH/Com-ex (97) 38 Rev 15.12.1997	Financial Regulations for the Management Unit SIS
SCH/Com-ex (97) 39 Rev 15.12.1997	Guiding Principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States READMISSION
SCH/Com-ex (98) 1 Rev 2 21.4.1998	Report on the activities of the task force
SCH/Com-ex (98) 2 21.4.1998	SIS 1+project BUDGET — SIS
SCH/Com-ex (98) 3 21.4.1998	Management report on the 1996 C.SIS budget BUDGET — SIS
SCH/Com-ex (98) 5 21.4.1998	Budget for 1998 C.SIS installation expenditure BUDGET — SIS
SCH/Com-ex (98) 6 21.4.1998	1998 budget estimate for the SIRENE Phase II network BUDGET— SIS
SCH/Com-ex (98) 7 21.4.1998	1998 budget estimate for Management Unit expenditure BUDGET — SIS
SCH/Com-ex (98) 8 21.4.1998	1998 budget estimate for the Helpdesk BUDGET — SIS
SCH/Com-ex (98) 9 21.4.1998	JSA budget BUDGET — SECRETARIAT
SCH/Com-ex (98) 10 21.4.1998	Cooperation between the Contracting Parties in returning aliens by air READMISSION
SCH/Com-ex (98) 11 21.4.1998	C.SIS with 15/18 connections SIS
SCH/Com-ex (98) 12 21.4.1998	Exchange at local level of statistics on visas VISAS
SCH/Com-ex (98) 15 23.6.1998	1998 budget for setting up SIS BUDGET — SIS

SCH/Com-ex (98) 17 23.6.1998	Confidential nature of certain documents
SCH/Com-ex (98) 18 Rev 23.6.1998	Measures to be taken in respect of countries posing problems with regard to the issue of documents required to remove their nationals from Schengen territory READMISSION — VISAS
SCH/Com-ex (98) 19 23.6.1998	Monaco VISAS — EXTERNAL BORDERS — SIS
SCH/Com-ex (98) 21 23.6.1998	Stamping of passports of visa applicants VISAS
SCH/Com-ex (98) 24 23.6.1998	Agreement on waiver of the visa requirement (Article 20 of the implementing Convention) VISAS
SCH/Com-ex (98) 26 def. 16.9.1998	Setting up of the implementing Convention Standing Committee
SCH/Com-ex (98) 27 23.6.1998	1997 annual report
SCH/Com-ex (98) 29 Rev 23.6.1998	Catch-all clause to cover the whole technical Schengen acquis
SCH/Com-ex (98) 30 16.9.1998	1999 budget estimate for the SIRENE Phase II network
SCH/Com-ex (98) 31 16.9.1998	1999 budget estimate for the Management unit
SCH/Com-ex (98) 32 16.9.1998	Approval of the report on the 1997 expenditure for the SIRENE Phase II network
SCH/Com-ex (98) 33 16.9.1998	Approval of the report on the 1997 expenditure for the Management Unit
SCH/Com-ex (98) 34 16.9.1998	Approval of the report on the 1997 expenditure for the Help Desk
SCH/Com-ex (98) 35 Rev 2 16.9.1998	Forwarding the Common Manual to EU applicant States
SCH/Com-ex (98) 37 def. 2	Action plan to combat illegal immigration
SCH/Com-ex (98) 43 Rev 16.9.1998	Ad hoc Committee on Greece
SCH/Com-ex (98) 44 16.12.1998	Budget estimate for the installation of the C.SIS for 1999
SCH/Com-ex (98) 45 16.12.1998	Operating budget estimate for the C.SIS for 1999
SCH/Com-ex (98) 46 Rev 2 16.12.1998	1999 budget of the Joint Supervisory Authority
SCH/Com-ex (98) 47 Rev 16.12.1998	1999 budget of the Schengen Secretariat
SCH/Com-ex (98) 49 Rev 3 16.12.1998	Bringing the implementing Convention into force in Greece
SCH/Com-ex (98) 50 16.12.1998	Budget (installation and operations) for the C.SIS for 1997
SCH/Com-ex (98) 51 Rev 3 16.12.1998	Cross-border police cooperation in the area of crime prevention and detection when requested
SCH/Com-ex (98) 52 16.12.1998	Handbook on cross-border police cooperation

SCH/Com-ex (98) 53 Rev 2	Harmonisation of visa policy — abolition of the grey lists
SCH/Com-ex (98) 56 16.12.1998	Manual of documents to which a visa may be affixed
SCH/Com-ex (98) 57 16.12.1998	Introduction of a harmonised form for invitations, proof of accommodation, and the acceptance of obligations of maintenance support
SCH/Com-ex (98) 58 Rev 16.12.1998	Report by the Standing Committee on the implementation of the implementing Convention by the Federal Republic of Germany
SCH/Com-ex (98) 59 Rev 16.12.1998	Coordinated deployment of document advisers
SCH/Com-ex (99) 1 Rev 2 28.4.1999	Drugs situation
SCH/Com-ex (99) 3 28.4.1999	Help Desk budget for 1999
SCH/Com-ex (99) 4 28.4.1999	C.SIS installation costs
SCH/Com-ex (99) 5 28.4.1999	SIRENE Manual
SCH/Com-ex (99) 6 28.4.1999	Telecomms situation
SCH/Com-ex (99) 7 Rev 2 28.4.1999	Liaison officers
SCH/Com-ex (99) 8 Rev 2 28.4.1999	Payments to informers
SCH/Com-ex (99) 9 Rev 28.4.1999	Resolving the Schengen acquis
SCH/Com-ex (99) 10 28.4.1999	Illegal trade in weapons
SCH/Com-ex (99) 11 Rev 2 28.4.1999	Decision relating to the Agreement on cooperation in proceedings for road traffic offences
SCH/Com-ex (99) 13 28.4.1999	Withdrawal of old versions of the Common Manual and the Common Consular Instructions and adoption of new versions
SCH/Com-ex (99) 14 28.4.1999	Manual of documents on which a visa may be affixed
SCH/Com-ex (99) 16 Rev 2 28.4.1999	Relation Schengen-Benelux
SCH/Com-ex (99) 17 Rev 28.4.1999	Winding up after 1 May 1999
SCH/Com-ex (99) 18 28.4.1999	Improvement of police cooperation in preventing and detecting offences

Declarations

SCH/Com-ex (93) Decl 5 14.12.1993	SIRENE Manual
SCH/Com-ex (93) Decl 6 14.12.1993	Cooperation measures between authorities responsible for border controls

SCH/Com-ex (93) Decl 13 14.12.1993	Guidelines to facilitate international judicial assistance in combatting drugs trafficking
SCH/Com-ex (94) Decl 8 27.6.1994	External borders
SCH/Com-ex (94) Decl 13 Rev 2 22.12.1994	Legal documents which can be transmitted directly by post
SCH/Com-ex (94) Decl 14 Rev 22.12.1994	SIS
SCH/Com-ex (95) Decl 2 29.6.1995	Police cooperation
SCH/Com-ex (95) Decl 3 29.6.1995	Cross-border police cooperation
SCH/Com-ex (95) Decl 4 20.12.1995	Exchange of information on visas which have been issued
SCH/Com-ex (95) Decl 5 20.12.1995	Harmonisation of consular fees
SCH/Com-ex (96) Decl 1 21.2.1996	Terrorism
SCH/Com-ex (96) Decl 2 Rev 18.4.1996	The approach to the problem of drug tourism and illicit drug flows
SCH/Com-ex (96) Decl 4 Rev 18.4.1996	Introduction of uniform fees for issuing visas
SCH/Com-ex (96) Decl 5 18.4.1996	Definition of the concept of an alien
SCH/Com-ex (96) Decl 6 Rev 2 26.6.1996	Declaration on extradition
SCH/Com-ex (96) Decl 7 Rev 27.6.1996	Transfer and readmission policy between the Schengen States
SCH/Com-ex (97) Decl 1 Rev 3 25.4.1997	Bringing the implementing Convention into force in Italy, Greece and Austria
SCH/Com-ex (97) Decl 4 24.6.1997	Annual report on the situation at the external borders of the States already implementing the implementing Convention between 1 January and 31 December 1996
SCH/Com-ex (97) Decl 5 Rev 24.6.1997	Conclusions of the seminar held in Lisbon on 14 and 15 April 1997 on joint alternative measures taken by individual Schengen States
SCH/Com-ex (97) Decl 6 25.4.1997	Problems encountered in determining identity and obtaining travel documents to replace passports
SCH/Com-ex (97) Decl 8 24.6.1997	Pilot project 'routes used for the trafficking of stolen vehicles'
SCH/Com-ex (97) Decl 9 24.6.1997	Pilot projects 'drug trafficking' and 'illegal immigration'
SCH/Com-ex (97) Decl 10 24.6.1997	Bringing the implementing Convention into force in Italy, Greece and Austria
SCH/Com-ex (97) Decl 11 7.10.1997	List of authorities entitled to access the SIS in Italy, Austria and Greece
SCH/Com-ex (97) Decl 12 7.10.1997	List of the central authorities competent for the national component of the SIS
SCH/Com-ex (97) Decl 13 Rev 2 21.4.1998	Abduction of minors

SCH/Com-ex (97) Decl 14 Rev 15.12.1997	Measures towards Third States giving rise to readmission problems
SCH/Com-ex (98) Decl 1 23.6.1998	Network of national illegal immigration experts
SCH/Com-ex (98) Decl 2 Rev 16.9.1998	Strategy for the secondment of liaison officers
SCH/Com-ex (98) Decl 3 16.9.1998	Deployment of document advisers
SCH/Com-ex (98) Decl 7 16.12.1998	List of the authorities pursuant to Article 101 of the implementing Convention
SCH/Com-ex (98) Decl 8 16.12.1998	Treatment of third-country nationals who do not satisfy the conditions for entry into or stay in the territory of a Schengen State
SCH/Com-ex (98) Decl 9 16.12.1998	Results and the conclusions of visits to selected representations abroad
SCH/Com-ex (98) Decl 10 16.12.1998	Schengen external border security viewed as a system of integrated security filters
SCH/Com-ex (98) Decl. 11 Rev 16.12.1998	1997 annual report on the situation at the Schengen external borders
SCH/Com-ex (99) Decl 2 Rev 28.4.1999	SIS structure
SCH/Com-ex (99) Decl 3 28.4.1999	Report on Schengen external border control in the drugs sector

6. List of acts adopted for the implementation of the Convention by the organs upon which the Executive Committee has conferred decision-making powers.

Decisions of the Central Group

SCH/C (95) 122 Rev 4 31.10.1995	Adoption of the administrative and financial rules for phase II of the SIRENE network
SCH/C (95) 122 Rev 5 23.2.1998	Amendment of the financial rules for phase II of the SIRENE network
SCH/C (98) 117 27.10.1998	Action plan to combat illegal immigration
SCH/C (99) 25 22.3.1999	General principles for payments to informers and infiltrators
SCH/C (99) 47 Rev 26.4.1999	Discharge for the budget 1998

ANNEX B

Article 2

PART 1

The Convention, signed in Schengen on 19 June 1990, between the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, implementing the Schengen Agreement:

Article 2(4)

Article 4, as far as controls on baggage are concerned ([1])

Article 10(2)

Article 19(2)

Articles 28 to 38 and related definitions ([2])

Article 60

Article 70

Article 74

Articles 77 to 81 ([3])

Articles 83 to 90 ([3])

Articles 120 to 125

Articles 131 to 135

Article 137

Articles 139 to 142

Final Act: declaration 2

Final Act: declaration 4, 5 and 6

Protocol

Common declaration

Declaration by Ministers and State Secretaries

PART 2

1. The Protocol, signed in Paris on 27 November 1990, on accession of the Government of the Italian Republic to the Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985.

2. The following provisions of the Agreement, signed in Paris on 27 November 1990, on accession of the Italian Republic to the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, its Final Act and related declarations:

   Article 1

   Articles 5 and 6

   Final Act: Part I

   Part II, declarations 2 and 3

   Declaration by Ministers and State Secretaries.

([1]) As far as controls on baggage are concerned, Article 4 has been superseded by Council Regulation (EEC) 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea-crossing (OJ L 374, 31.12.1991, p. 4).

([2]) Replaced by the Convention, signed in Dublin on 15 June 1990, determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (OJ C 254, 19.8.1997, p. 1).

([3]) Articles 77 to 81 and 83 to 90 of the implementing Convention have been replaced by Directive 91/477/EEC on the control of the acquisition and possession of weapons. Weapons of war come within Member States' sphere of competence, under Article 296(1)(b) of the EC Treaty.

3. The Protocol, signed in Bonn on 25 June 1991, on accession of the Government of the Kingdom of Spain to the Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985, as amended by the Protocol on accession by the Government of the Italian Republic, signed in Paris on 27 November 1990, and its accompanying declarations.

4. The following provisions of the Agreement, signed in Bonn on 25 June 1991, on accession of the Kingdom of Spain to the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which the Italian Republic has acceded under the Agreement signed in Paris on 27 November 1990, its Final Act and related declarations:

   Article 1

   Articles 5 and 6

   Final Act: Part I

   Part II, declarations 2 and 3

   Part III, declarations 1, 3 and 4

   Declaration by Ministers and State Secretaries.

5. The Protocol, signed in Bonn on 25 June 1991, on accession of the Government of the Portuguese Republic to the Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985, as amended by the Protocol on accession by the Government of the Italian Republic, signed in Paris on 27 November 1990, and its accompanying declarations.

6. The following provisions of the Agreement, signed in Bonn on 25 June 1991, on accession of the Portuguese Republic to the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which the Italian Republic has acceded under the Agreement signed in Paris on 27 November 1990, its Final Act and related declarations:

   Article 1

   Articles 7 and 8

   Final Act: Part I

   Part II, declarations 2 and 3

   Part III, declarations 2, 3, 4 and 5

   Declaration by Ministers and State Secretaries.

7. The Protocol, signed in Madrid on 6 November 1992, on accession of the Government of the Hellenic Republic to the Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985, as amended by the Protocols on accession by the Government of the Italian Republic, signed in Paris on 27 November 1990, and by the Governments of the Kingdom of Spain and the Portuguese Republic, signed in Bonn on 25 June 1991, and its accompanying declaration.

8. The following provisions of the Agreement, signed in Madrid on 6 November 1992, on accession of the Hellenic Republic to the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which have acceded the Italian Republic under the Agreement signed in Paris on 27 November 1990 and the Kingdom of Spain and the Portuguese Republic under the Agreements signed in Bonn on 25 June 1991, its Final Act and related declarations:

   Article 1

   Articles 6 and 7

   Final Act: Part I

Part II, declarations 2, 3, 4 and 5

Part III, declarations 1 and 3

Declaration by Ministers and State Secretaries.

9. The Protocol, signed in Brussels on 28 April 1995, on accession of the Government of the Republic of Austria to the Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985, as amended by the Protocols on accession by the Governments of the Italian Republic, the Kingdom of Spain and the Portuguese Republic, and the Hellenic Republic, signed on 27 November 1990, 25 June 1991 and 6 November 1992 respectively.

10. The following provisions of the Agreement, signed in Brussels on 28 April 1995, on accession of the Republic of Austria to the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which have acceded the Italian Republic, the Kingdom of Spain and the Portuguese Republic, and the Hellenic Republic under the Agreements signed on 27 November 1990, 25 June 1991 and 6 November 1992 respectively, and its Final Act:

Article 1

Articles 5 and 6

Final Act: Part I

Part II, declaration 2

Part III.

11. The Protocol, signed in Luxembourg on 19 December 1996, on accession by the Government of the Kingdom of Denmark to the Agreement on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985, and its related declaration.

12. The following provisions of the Agreement, signed in Luxembourg on 19 December 1996, on accession of the Kingdom of Denmark to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of controls at their common borders, signed in Schengen on 19 June 1990, and its Final Act and related declaration:

Article 1

Article 5(1)

Articles 7 and 8

Final Act: Part I

Part II, declaration 2

Part III

Declaration by the Ministers and State Secretaries.

13. The Protocol, signed in Luxembourg on 19 December 1996, on accession by the Government of the Republic of Finland to the Agreement on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985, and its related declaration.

14. The following provisions of the Agreement, signed in Luxembourg on 19 December 1996, on accession of the Republic of Finland to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of controls at their common borders, signed in Schengen on 19 June 1990, and its Final Act and related declaration:

Article 1

Articles 6 and 7

Final Act: Part I

Part II, declaration 2

Part III

Declaration by the Ministers and State Secretaries.

15. The Protocol, signed in Luxembourg on 19 December 1996, on accession by the Government of the Kingdom of Sweden to the Agreement on the gradual abolition of controls at their common borders, signed in Schengen on 14 June 1985, and its related declaration.

16. The following provisions of the Agreement, signed in Luxembourg on 19 December 1996, on accession of the Kingdom of Sweden to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of controls at their common borders, signed in Schengen on 19 June 1990, and its Final Act and related declaration:

Article 1

Articles 6 and 7

Final Act: Part I

Part II, declaration 2

Part III

Declaration by the Ministers and State Secretaries.

PART 3

Decisions of the Executive Committee

Reference	Subject	Justification [1]
SCH/Com-ex (93) 3 14.12.1993	Administrative and Financial Arrangements	(f)
SCH/Com-ex (93) 9 14.12.1993	Confirmation of the declarations by the Ministers and Secretaries of State regarding drugs and psychotropic substances	(a)
SCH/Com-ex (93) 11 14.12.1993	Confirmation of declarations made by the Ministers and Secretaries of State	(a)
SCH/Com-ex (94) 27 22.12.1994	Schengen 1993 accounts are approved and a discharge given to the Secretary-General of the Benelux Economic Union	(f)
SCH/Com-ex (95) 7 29.6.1995	The Executive Committee endorses the decision to use the Benelux General Secretariat for the award of the SIRENE Phase II contract	(f)
SCH/Com-ex (96) 15 Cor 2 27.6.1996	Amendment to the Financial and Administrative Arrangements	(f)
SCH/Com-ex (97) 14 7.10.1997	1995 Management Report on the implementation of the C.SIS installation and operating budget	(b)
SCH/Com-ex (97) 17 Rev 15.12.1997	Distribution key for 1998/1999	(f)
SCH/Com-ex (97) 19 7.10.1997	C.SIS operating budget for 1998	(b)
SCH/Com-ex (97) 20 7.10.1997	Use of the uniform visa sticker by Norway and Iceland	(e)
SCH/Com-ex (97) 22 Rev 15.12.1997	Budget for the Schengen Secretariat for 1998	(f)
SCH/Com-ex (97) 27 Rev 4 7.10.1997	Bringing into force the implementing Convention in Italy	(b)
SCH/Com-ex (97) 28 Rev 4 7.10.1997	Bringing into force the implementing Convention in Austria	(b)
SCH/Com-ex (97) 33 15.12.1997	Amendment to Article 18 of the Financial Regulations	(f)
SCH/Com-ex (97) 38 Rev 15.12.1997	Financial Regulations for the Management Unit	(c)

Reference	Subject	Justification [1]
SCH/Com-ex (98) 2 21.4.1998	SIS 1+project	(f)
SCH/Com-ex (98) 3 21.4.1998	Management report on the 1996 C.SIS budget	(f)
SCH/Com-ex (98) 5 21.4.1998	Budget for 1998 C.SIS installation expenditure	(f)
SCH/Com-ex (98) 6 21.4.1998	1998 budget estimate for the SIRENE Phase II network	(f)
SCH/Com-ex (98) 7 21.4.1998	1998 budget estimate for Management Unit expenditure	(f)
SCH/Com-ex (98) 8 21.4.1998	1998 budget estimate for the Helpdesk	(f)
SCH/Com-ex (98) 9 21.4.1998	JSA budget	(f)
SCH/Com-ex (98) 15 23.6.1998	1998 SIS installation budget BUDGET — SIS	(f)
SCH/Com-ex (98) 24 23.6.1998	Visa waiver agreements (Article 20 of implementing Convention) VISAS	(f)
SCH/Com-ex (98) 27 23.6.1998	1997 annual report	(f)
SCH/Com-ex (98) 30 16.9.1998	1999 draft budget for the SIRENE Phase II network	(f)
SCH/Com-ex (98) 31 16.9.1998	1999 draft budget for the Management Unit	(f)
SCH/Com-ex (98) 32 16.9.1998	Approval of the SIRENE Phase II accounts for 1997	(f)
SCH/Com-ex (98) 33 16.9.1998	Approval of the Management Unit accounts for 1997	(f)
SCH/Com-ex (98) 34 16.9.1998	Approval of the Help Desk accounts for 1996 and 1997	(f)
SCH/Com-ex (98) 44 16.12.1998	C.SIS installation budget for 1999	(f)
SCH/Com-ex (98) 45 16.12.1998	C.SIS operating budget for 1999	(f)
SCH/Com-ex (98) 46 Rev 2 16.12.1998	Joint Supervisory Authority budget for 1999	(f)
SCH/Com-ex (98) 47 Rev 16.12.1998	Schengen Secretariat budget for 1999	(f)
SCH/Com-ex (98) 50 16.12.1998	Implementation of the 1997 C.SIS installation and operating budget	(f)
SCH/Com-ex (98) 58 Rev 16.12.1998	Report by the Standing Committee on the implementation of the implementing Convention by the Federal Republic of Germany	(b)
SCH/Com-ex (99) 1 Rev 2 28.4.1999	Acquis drugs	(a)
SCH/Com-ex (99) 9 Rev 28.4.1999	Settlement of the Schengen acquis	(b)

Reference	Subject	Justification [1]
SCH/Com-ex (99) 16 Rev 2 28.4.1999	Relation Schengen-Benelux	(f)
SCH/Com-ex (99) 17 Rev 28.4.1999	Winding up after 1 May 1999	(f)

[1] The explanations (letters) given in this column relate to the criteria listed in the fourth recital.

Declarations of the Executive Committee

Reference	Subject	Justification [1]
SCH/Com-ex (93) Decl 5 14.12.1993	SIRENE Manual	(b)
SCH/Com-ex (93) Decl 6 14.12.1993	Cooperation measures between authorities responsible for border controls	(a)
SCH/Com-ex (93) Decl 13 14.12.1993	Guide aimed at facilitating international mutual assistance in combating drug trafficking	(a)
SCH/Com-ex (94) Decl 8 27.6.1994	External borders	(a)
SCH/Com-ex (94) Decl 13 Rev 2 22.12.1994	Legal documents which may be transmitted directly by post	(a)
SCH/Com-ex (94) Decl 14 Rev 22.12.1994	SIS	(b)
SCH/Com-ex (95) Decl 2 29.6.1995	Police cooperation	(a)
SCH/Com-ex (95) Decl 3 20.12.1995	Cross-border police cooperation	(a)
SCH/Com-ex (95) Decl 4 20.12.1995	Exchange of information on visas which have been issued	(a)
SCH/Com-ex (95) Decl 5 20.12.1995	Harmonisation of consular fess	(a)
SCH/Com-ex (96) Decl 1 21.2.1996	Terrorism	(a)
SCH/Com-ex (96) Decl 2 Rev 18.4.1996	The approach to the problem of drug tourism and illicit drug flows	(a)
SCH/Com-ex (96) Decl 4 Rev 18.4.1996	Introduction of uniform fees for issuing visas	(a)
SCH/Com-ex (96) Decl 7 Rev 27.6.1996	Transfer and readmission policy between Schengen States	(a)
SCH/Com-ex (97) Decl 1 Rev 3 25.4.1997	Annual report for 1996	(b)
SCH/Com-ex (97) Decl 4 24.6.1997	Annual report on the situation at the external borders of the States already implementing the Schengen Convention between 1 January and 31 December 1996	(b)
SCH/Com-ex (97) Decl 5 Rev 24.6.1997	Conclusion of the seminar held in Lisbon on 14 and 15 April 1997 on joint alternative measures	(b)

Reference	Subject	Justification [1]
SCH/Com-ex (97) Decl 6 25.4.1997	Problems encountered in determining identity and obtaining travel documents to replace passports	(a)
SCH/Com-ex (97) Decl 8 24.6.1997	Pilot project 'routes used for the trafficking of stolen vehicles'	(a)
SCH/Com-ex (97) Decl 9 24.6.1997	Pilot projects 'drug trafficking' and 'illegal immigration'	(a)
SCH/Com-ex (97) Decl 10 24.6.1997	Bringing the Convention into force in Italy, Greece and Austria	(a)
SCH/Com-ex (97) Decl 11 7.10.1997	List of authorities entitled to access the SIS in Italy, Austria and Greece	(a)
SCH/Com-ex (97) Decl 12 7.10.1997	List of the central authorities competent for the national component of the SIS	(a)
SCH/Com-ex (97) Decl 14 Rev 15.12.1997	Measures towards third States giving rise to readmission problems	(a)
SCH/Com-ex (98) Decl 1 23.6.1998	Network of national illegal immigration experts	(a)
SCH/Com-ex (98) Decl 2 Rev 16.9.1998	Strategy for secondment of liaison officers	(a)
SCH/Com-ex (98) Decl 3 16.9.1998	Deployment of document advisers	(a)
SCH/Com-ex (98) Decl 7 16.12.1998	List of competent authorities pursuant to Article 101 of the implementing Convention	(a)
SCH/Com-ex (98) Decl 8 16.12.1998	Treatment of third-country aliens who do not satisfy the conditions for entry into or stay in the territory of a Schengen State	(a)
SCH/Com-ex (98) Decl 9 16.12.1998	Outcome and conclusions of visits to selected representations abroad	(a)
SCH/Com-ex (98) Decl 10 16.12.1998	Schengen external border security viewed as a system of integrated security filters	(a)
SCH/Com-ex (98) Decl 11 Rev 16.12.1998	1997 Annual Report on the situation at Schengen external borders	(a)
SCH/Com-ex (98) Decl 3 28.4.1999	Report on Schengen external border control in the drugs sector	(a)

[1] The explanations (letters) given in this column relate to the criteria listed in the fourth recital.

Decisions of the Central Group

Reference	Subject	Justification [1]
SCH/C (95) 122 Rev 4 31.10.1995	Adoption of the Administrative Regulation and the Financial Regulation for Phase II of the SIRENE network	(f)
SCH/C (95) 122 Rev 5 23.2.1998	Amendment to the Financial Regulation for Phase II of the SIRENE network	(f)
SCH/C (99) 47 Rev 26.4.1999	Discharge for the budget 1998	(f)

[1] The explanations (letters) given in this column relate to the criteria listed in the fourth recital.

COUNCIL DECISION

of 20 May 1999

determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the Schengen acquis

(1999/436/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Acting on the basis of Article 2(1), second subparagraph, second sentence, of the Protocol annexed to the Treaty on European Union and to the Treaty establishing the European Community, integrating the Schengen acquis into the framework of the European Union (hereinafter referred to as the 'Schengen Protocol');

(1) Whereas pursuant to Article 2(1), first subparagraph, of the Schengen Protocol, the Schengen acquis as defined in the Annex to the Protocol shall, from the date of entry into force of the Treaty of Amsterdam, immediately apply to the thirteen Member States referrred to in Article 1 of the Protocol, without prejudice to the provisions of Article 2(2) of the Protocol;

(2) Whereas nothing in this Decision affects the continuation of legal obligations under the 1990 Convention;

(3) Whereas the mandate conferred upon the Council by Article 2(1), second subparagraph, of the Schengen Protocol, to determine, acting unanimously and in conformity with the relevant provisions of the Treaties, the legal basis for each of the provisions or decisions which constitute the Schengen acquis, has as one of its objectives the identification of the legal basis for any future proposals and initiatives to amend or build upon the Schengen acquis, which, in accordance with Article 5(1), first subparagraph, of the Schengen Protocol, are subject to the relevant provisions of the Treaties, including those governing the form of the act to be adopted and the procedure for its adoption;

(4) Whereas some provisions of the 1990 Convention implementing the Schengen Agreement require Contracting States to introduce penalties for their effective enforcement without, however, requiring any harmonisation of these penalties; whereas therefore, the legal basis to be determined for these provisions should be the one determined for the rules the breach of which has to be subject to sanctions, without prejudice to the legal basis for any future measure aiming at the harmonisation of penalties;

(5) Whereas the determination of a legal basis in conformity with the relevant provisions of the Treaties for each of the provisions or decisions which constitute the Schengen acquis does not affect the exercise of the responsibilities incumbent upon the Member States according to Article 64 TEC and Article 33 TEU with regard to the maintenance of law and order and the safeguarding of internal security;

(6) Whereas the determination of a legal basis in conformity with the relevant provisions of the Treaties for each of the provisions or decisions which constitute the Schengen acquis, or the determination that a legal basis is unnecessary for any such provisions or decisions, does not affect the right of Member States to carry out checks on goods linked to prohibitions or restrictions laid down by the Member States, and which are compatible with Community law;

(7) Whereas the determination of a legal basis in conformity with the Treaty establishing the European Community for the provisions of the 1990 Convention implementing the Schengen Agreement relating in particular to the conditions for entry into the territory of the Contracting States or for issuing visas does not affect current rules governing the recognition of the validity of travel documents;

(8) Whereas the rights and obligations of Denmark are governed by Article 3 of the Protocol integrating the Schengen acquis into the framework of the European Union and in Articles 1 to 5 of the Protocol on the position of Denmark;

(9) Whereas the relationship between the Protocol on the position of Denmark, the Protocol on the position of the United Kingdom and of Ireland on certain questions regarding the Treaty establishing the European Community and Treaty on European Union and the Protocol integrating the Schengen acquis into the framework of the European Union, on the basis of which various forms are prescribed for the adoption of and participation in the Schengen acquis and its further development, should be taken into account when Schengen is incorporated into the European Union;

(10) Whereas the Schengen Protocol itself provides for the association of the Republic of Iceland and the Kingdom of Norway with the implementation of the Schengen acquis and its further development on the basis of the Agreement signed in Luxembourg on 19 December 1996;

(11) Whereas the acts adopted on the basis of a proposal or an initiative for the further development of the Schengen acquis shall contain a reference to the Schengen Protocol, so that legal security is guaranteed and the provisions related to the Schengen Protocol can be applied in every case;

(12) Whereas, while having regard to Article 134 of the Convention implementing Schengen, the integration of the Schengen acquis in the framework of the European Community does not affect Member States' competence in relation to the recognition of States and territorial units, their authorities and travel and other documents issued by them,

HAS DECIDED AS FOLLOWS:

Article 1

This Decision determines legal basis for the provisions and decisions set out in Annexes A to D and constituting the Schengen acquis, except for those provisions and decisions for which the Council, acting on the basis of Article 2(1), second subparagraph, first sentence, of the Schengen Protocol, has determined that no legal basis is necessary.

Article 2

The legal basis for the provisions of the Convention signed in Schengen on 19 June 1990 between the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands implementing the Agreement on the gradual abolition of checks at their common borders, signed in Schengen on 14 June 1985 (hereafter referred to as 'the Schengen Convention'), and its related Final Act, shall be determined in accordance with Annex A.

Article 3

The legal basis for the provisions of the Accession Agreements to the Schengen Convention concluded with the Italian Republic (signed in Paris on 27 November 1990), the Kingdom of Spain and the Portuguese Republic (signed in Bonn on 25 June 1991), the Hellenic Republic (signed in Madrid on 6 November 1992), the Republic of Austria (signed in Brussels on 28 April 1995) and the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden (signed in Luxembourg on 19 December 1996), and their related Final Acts and declarations, shall be determined in accordance with Annex B.

Article 4

The legal basis for the decisions and declarations of the Executive Committee established by the Schengen Convention shall be determined in accordance with Annex C.

Article 5

The legal basis for the acts adopted for the implementation of the Schengen Convention by the organs upon which the Executive Committee has conferred decision-making powers shall be determined in accordance with Annex D.

Article 6

With regard to the Member States listed in Article 1 of the Protocol integrating the Schengen acquis into the framework of the European Union, the territorial scope of the provisions or decisions forming the Schengen acquis for which the Council has determined a legal basis in Title IV of Part 3 of the EC Treaty on the basis of Article 2(1), second sentence, of the abovementioned Protocol, and the territorial scope of measures extending or amending such provisions and decisions shall be that laid down in Article 138 of the 1990 Convention implementing the Schengen Agreement and that laid down in the relevant provisions of the accession instruments to that Convention.

Article 7

This Decision shall not affect the competence of Member States with regard to the recognition of States and territorial units and passports, travel and identity documents issued by their authorities.

Article 8

The acts adopted on the basis of a proposal or an initiative for the further development of the Schengen acquis shall contain a reference to the Schengen-Protocol in the preamble.

Article 9

This Decision shall take effect immediately. It shall be published in the *Official Journal of the European Communities.*

Done at Brussels, 20 May 1999.

For the Council

The President

E. BULMAHN

ANNEX A

Article 2

Schengen acquis	EU legal basis
1. Agreement between the Governments of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders of 14 June 1985	Article 2 Schengen Protocol
2. Convention implementing the Schengen Agreement, related final act and joint statements:	
Article 1, except for the definitions of 'application for asylum', 'asylum seeker' and 'processing applications for asylum'	Definitions shall apply in all Articles of the Convention implementing the Schengen Agreement given an EU legal basis by virtue of this Decision
Article 2(1)	Article 62(1) TEC
Article 2(2) and (3)	Article 62(1) TEC, while fully respecting the provisions of Article 64(1) TEC
Article 3	Article 62(2)(a) TEC, whilst recognising that the determination of the nature, modalities and severity of the penalty provisions required ander this Article is a matter for the Member States
Article 4(1) to (3) ([1])	Article 62(2)(a) TEC, to the extent that these provisions deal with checks on persons for the purpose of deciding upon nationality/entry and without prejudice to checks for national security purposes and checks for fiscal purposes, where appropriate
Article 5, except for paragraph (1)(e)	Article 62(2)(a) TEC
Article 5(1)(e)	Article 62(2)(a) TEC, whilst fully respecting the provisions of Article 64(1) TEC and recognising that these provisions have to be understood in light of the declaration adopted by the Intergovernmetal Conference of 1996 relating to Article 64(1) (ex Article 73L(1)) TEC (Declaration No 19)
Article 6	Article 62(2)(a) TEC: statement ander Article 4(1) to (3) also applies here
Article 7	Article 66 TEC: to the extent that these provisions deal with checks on persons for the purpose of deciding upon nationality/entry and without prejudice to checks for national security purposes and checks for fiscal purposes, where appropriate, and to the extent that these provisions do not concern forms of police cooperation covered by the provisions of Title III of the 1990 implementing Convention
Article 8	Article 62(2)(a) TEC: The note in respect of Article 4 (1) to (3) also applies in this case
Article 9	Article 62(2)(b) TEC, while fully respecting the provisions of Article 64(2) TEC
Article 10(1) and (3)	Article 62(2)(b) TEC
Article 11	Article 62(2)(b) TEC
Article 12	Article 62(2)(b) TEC
Article 13	Article 62(2)(b) TEC
Article 14	Article 62(2)(b) TEC, while recognising that the current rules on the recognition of travel documents are unaffected
Article 15	Article 62(2)(b) TEC

Schengen acquis	EU legal basis
Article 16	Article 62(2)(b) TEC
Article 17(1), (2) and (3) points (a) to (f)	Article 62(2)(b) TEC,
Article 17(3)(g)	Article 63(3) TEC
Article 18	Articles 62(2) and 63(3) TEC
Article 19(1)	Article 62(3) TEC
Article 19(3) and (4)	Article 62(3) TEC
Article 20	Article 62(3) TEC
Article 21	Article 62(3) TEC
Article 22	Article 62(3) TEC
Article 23(1)	Article 62(3) TEC
Article 23(2), (3), (4) and (5)	Articles 62(3) and 63(3) TEC
Article 24	Articles 62(3) and 63(3) TEC
Article 25	Articles 62(3) and 63(3) TEC
Article 26	Article 63(3) TEC, while it is acknowledged that the determination of the nature, modalities and severity of the penalty provisions required under this Article is a matter for the Member States
Article 27(1)	Article 63(3) TEC, while it is acknowledged that the determination of the nature, modalities and severity of the penalty provisions required under this Article is a matter for the Member States
Article 27(2) and (3)	Articles 30(1), 31 and 34 TEU
Article 39	Articles 34 and 30 TEU
Article 40	Articles 34 and 32 TEU
Article 41	Articles 34 and 32 TEU
Article 42	Articles 34 and 32 TEU
Article 43	Articles 34 and 32 TEU
Article 44	Articles 34 and 30(1) TEU
Article 45	Articles 34 and 30(1) TEU
Article 46	Articles 34 and 30(1) TEU
Article 47	Articles 34 and 30(1) TEU
Article 48	Articles 34 and 31(a) TEU
Article 49	Articles 34 and 31(a) TEU
Article 50	Articles 34 and 31(a) TEU
Article 51	Articles 34 and 31(a) TEU
Article 52	Articles 34 and 31(a) TEU
Article 53	Articles 34 and 31(a) TEU
Article 54	Articles 34 and 31 TEU
Article 55	Articles 34 and 31 TEU
Article 56	Articles 34 and 31 TEU
Article 57	Articles 34 and 31 TEU
Article 58	Articles 34 and 31 TEU
Article 59	Articles 34 and 31(b) TEU
Article 61	Articles 34 and 31(b) TEU
Article 62	Articles 34 and 31(b) TEU

Schengen acquis	EU legal basis
Article 63	Articles 34 and 31(b) TEU
Article 64	Articles 34 and 31(b) TEU
Article 65	Articles 34 and 31(b) TEU
Article 66	Articles 34 and 31(b) TEU
Article 67	Articles 34 and 31(a) TEU
Article 68	Articles 34 and 31(a) TEU
Article 69	Articles 34 and 31(a) TEU
Article 71	Articles 34 and 30 and 31 TEU
Article 72	Articles 34 and 31 TEU
Article 73	Articles 34 and 30(1) and 31 TEU
Article 75	Article 95 TEC
Article 76	Articles 95 and 152 TEC, to the extent that these provisions deal only with measures relating to the licit trade in controlled drugs which have as their object the functioning of the internal market; and, with due respect for individual Member States' competences, Articles 30(1)(a) and 34 TEU, to the extent that these provisions deal with elements of Member States' control or enforcement regimes for licit or illicit drugs
Article 82	Article 95 TEC [2]
Article 91	Article 95 TEC
Article 92 to 119	P. M.
Article 126(1), (2)	Articles 30(1) and 34 TEU
Article 126(3)	Articles 30(1) and 34 TEU and Article 95 TEC, to the extent that it concerns personal data exchanged pursuant to the provisions of Articles 16 and 25 of the 1990 Schengen Convention or on the basis of the Common Consular Instructions
Article 126(4)	Articles 30(1) and 34 TEU
Article 127	Articles 30(1) and 34 TEU and Article 95 TEC; with regard to Article 127(1) to the extent that in respect of Member States concerned, Directive 95/46/EC does not yet apply to the processing of personal data held in manual filing systems; moreover, the statement under Article 126(3)(a)(d) and (f) applies
Article 128(1) and (3)	Articles 30(1) and 34 TEU
Article 128(2)	Articles 30(1) and 34 TEU and Article 95 TEC
Article 129	Articles 30(1) and 34 TEU
Article 130	Articles 30(1) and 34 TEU
Article 136	Article 62(2) TEC (taking into account the Protocol annexed to the TEC under the Treaty of Amsterdam on External Relations of the Member States with regard to Crossing of External Borders)
Final Act: Declaration 1	Article 2(2) Schengen-Protocol (to be read also in conjunction with Article 8 of the Schengen-Protocol)
Final Act: Declaration 3	Articles 30, 31 and 34 TEU

[1] As far as controls on baggage are concerned, Article 4 is superseded by Council Regulation (EEC) No 3925/91 of 19 December 1991 on the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing (OJ L 374, 31.12.1991, p. 4).

[2] Articles 77 to 81 and Articles 83 to 90 of the implementing Convention have been superseded by Council Directive 91/447/EEC on control of the acquisition and possession of weapons. Under Article 296(1)(b) TEC the Member States are competent in respect of arms of war.

ANNEX B

Article 3

Schengen acquis	EU legal basis
The Agreement, signed in Paris on 27 November 1990, on Accession of the Italian Republic to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States Members of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, its Final Act and related Declarations:	
Article 2	Articles 34 and 32 TEU
Article 3	Articles 34 and 32 TEU
Article 4	Articles 34 and 31(b) TEU
Part II, declaration 1	Articles 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol)
Common declaration on Articles 2 and 3 of the Accession Agreement	Article 32 TEU
The Agreement, signed in Bonn on 25 June 1991, on Accession of the Kingdom of Spain to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States Members of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which the Italian Republic has acceded under the Agreement signed in Paris on 27 November 1990, its Final Act and related declarations:	
Article 2	Articles 34 and 32 TEU
Article 3	Articles 34 and 32 TEU
Article 4	Articles 34 and 31(b) TEU
Part II, Declaration 1	Article 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol)
Part III, Declaration 2	Articles 34 and 31(b) TEU
The Agreement, signed in Bonn on 25 June 1991, on Accession of the Portuguese Republic to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States Members of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which the Italian Republic has acceded under the Agreement signed in Paris on 27 November 1990, its Final Act and related declarations:	
Article 2	Articles 34 and Articles 32 TEU
Article 3	Articles 34 and 32 TEU
Article 4	Articles 34 and 31(b) TEU
Article 5	Articles 34 and 31(b) TEU
Article 6	Articles 34 and 31(a) TEU

Schengen acquis	EU legal basis
Part II, Declaration 1	Article 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol)
Part III, Declaration 1	Article 62(3) TEU
The Agreement, signed in Madrid on 6 November 1992, on Accession of the Hellenic Republic to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States Members of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which the Italian Republic acceded under the Agreement signed in Paris on 27 November 1990, and the Portuguese Republic and the Kingdom of Spain acceded under the Agreement signed in Bonn on 25 June 1991, its Final Act and related declarations:	
Article 2	Articles 34 and 32 TEU
Article 3	Articles 34 and 31(b) TEU
Article 4	Articles 34 and 31(b) TEU
Article 5	Articles 34 and 31(a) TEU
Part II, Declaration 1	Article 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol)
Part III, Declaration 2	Article 31(a) TEU
The Agreement, signed in Brussels on 28 April 1995, on Accession of the Republic of Austria to the Convention, signed at Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the Governments of the States Members of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, to which have acceded the Italian Republic, the Kingdom of Spain and the Portuguese Republic, and the Hellenic Republic under the Agreements signed on 27 November 1990, 25 June 1991 and 6 November 1992 respectively and its Final Act:	
Article 2	Articles 34 and 32 TEU
Article 3	Articles 34 and 32 TEU
Article 4	Articles 34 and 31(b) TEU
Part II, declaration 1	Article 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol)
The Agreement, signed in Luxembourg on 19 December 1996, on Accession of the Kingdom of Denmark to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of controls at their common borders, signed at Schengen on 19 June 1990, and its Final Act and related declaration:	
Article 2	Articles 34 and 32 TEU
Article 3	Articles 34 and 32 TEU
Article 4	Articles 34 and 31(b) TEU
Article 5(2)	Article 2(1) Schengen Protocol
Article 6	Article 2(1) Schengen Protocol

Schengen acquis	EU legal basis
Part II, Declaration 1	Article 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol
Part II, Declaration 3	Articles 34 and 31(b) TEU
The Agreement, signed in Luxembourg on 19 December 1996, on Accession of the Republic of Finland to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of controls at their common borders, signed at Schengen on 19 June 1990, and its Final Act and related declaration:	
Article 2	Articles 34 and 32 TEU
Article 3	Articles 34 and 32 TEU
Article 4	Articles 34 and 31(b) TEU
Article 5	Article 2(1) Schengen Protocol
Part II, Declaration 1	Article 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol)
Part II, Declaration 3	Articles 34 and 31(b) TEU
The Agreement, signed in Luxembourg on 19 December 1996, on Accession of the Kingdom of Sweden to the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of controls at their common borders, signed at Schengen on 19 June 1990, and its Final Act and related declaration:	
Article 2	Articles 34 and 32 TEU
Article 3	Articles 34 and 32 TEU
Article 4	Articles 34 and 31(b) TEU
Article 5	Article 2(1) Schengen Protocol
Part II, Declaration 1	Article 2(2) Schengen Protocol (to be read also in conjunction with Article 8 of the Schengen Protocol)
Part II, Declaration 3	Articles 34 and 31(b) TEU

ANNEX C

Article 4

CLASSIFICATION OF DECISIONS AND DECLARATIONS OF THE EXECUTIVE COMMITTEE

Decisions of the Executive Committee

Decision	Subject	EU legal basis
SCH/Com-ex (93) 10 14.12.1993	Confirmation of the declarations by the Ministers and Secretaries of State of 19 June 1992 and 30 June 1993 on bringing into force	Article 2(2) Schengen Protocol in conjunction with Article 8 Schengen Protocol insofar as a declaration has not become redundant by virtue of time or events
SCH/Com-ex (93) 14 14.12.1993	Improving practical cooperation between the judicial authorities to combat drug trafficking	Articles 31(a), 34 TEU
SCH/Com-ex (93) 16 14.12.1993	Financial Regulations on the installation and operating costs for the Schengen C.SIS	for the record
SCH/Com-ex (93) 21 14.12.1993	Extending the uniform visa	Article 62(2)(b) TEC
SCH/Com-ex (93) 22 Rev 14.12.1993	Confidential nature of certain documents	Article 207 TEC, Article 41 TEU
SCH/Com-ex (93) 24 14.12.1993	Common procedures for cancelling, recinding or shortening the length of validity of the uniform visa	Article 62(2)(b) TEC
SCH/Com-ex (94) 1 Rev 2 26.4.1994	Adjustment measures aiming to remove the obstacles and restrictions on traffic flows at road border crossing points at internal borders	Article 62(1) TEC
SCH/Com-ex (94) 2 26.4.1994	Issuing uniform visas at the borders	Article 62(2)(b) TEC
SCH/Com-ex (94) 15 Rev 21.11.1994	Introducing a computerised procedure for consulting the central authorities provided for in Article 17(2) of the implementing Convention	Article 62(2)(b) TEC
SCH/Com-ex (94) 16 Rev 21.11.1994	Acquisition of common entry and exit stamps	Article 62(2) TEC
SCH/Com-ex (94) 17 Rev 4 22.12.1994	Introducing and applying the Schengen system in airports and aerodromes	Article 62(2)(a) TEC
SCH/Com-ex (94) 25 22.12.1994	Exchages of statistical information on the issue of visas	Article 62(2)(b) in conjunction with Article 66 TEC
SCH/Com-ex (94) 28 Rev 22.12.1994	Certificate provided for in Article 75 for the transportation of drugs and/or psychotropic substances	Article 95 TEC
SCH/Com-ex (94) 29 Rev 2 22.12.1994	Bringing into force the Convention implementing the Schengen Agreement of 19 June 1990	Article 62(1) TEC bearing in mind Article 64(1) TEC
SCH/Com-ex (95) PV 1 Rev (Point No 8)	Common visa policy	Article 62(2)(b) TEC
SCH/Com-ex (95) 20 Rev 2 20.12.1995	Approval of document SCH/I (95) 40 Rev 6 on the procedure for applying Article 2(2) of the Convention implementing the Schengen Agreement	Article 62(1) TEC

Decision	Subject	EU legal basis
SCH/Com-ex (95) 21 20.12.1995	Swift exchange between the Schengen States of statistical and tangible data on possible malfunctions at the external borders	Article 66 TEC
SCH/Com-ex (96) 13 Rev 27.6.1996	Principles for issuing Schengen visas in accordance with Article 30(1)(a) of the Convention implementing the Schengen Agreement	Article 62(2)(b) TEC, for matters not covered by Article 30 of the implementing Convention
SCH/Com-ex (96) 27 19.12.1996	Issuing visas at borders to seamen in transit	Article 62(2)(b) TEC
SCH/Com-ex (97) 2 Rev 2 25.4.1997	Awarding the tender for the SIS II preliminary study	for the record
SCH/Com-ex (97) 6 Rev 2 24.6.1997	Schengen Manual on police cooperation in the field of public order and security	Article 30(1) TEU
SCH/Com-ex (97) 18 7.10.1997	Contributions from Norway and Iceland to the C.SIS operating costs	for the record
SCH/Com-ex (97) 24 7.10.1997	Future of the SIS	for the record
SCH/Com-ex (97) 29 Rev 2 7.10.1997	Bringing into force the Convention implementing the Schengen Agreement in Greece	Article 2(2) Schengen Protocol
SCH/Com-ex (97) 32 15.12.1997	Harmonisation of visa policy	Article 62(2)(b) TEC
SCH/Com-ex (97) 34 Rev 15.12.1997	Implementation of the Joint Action on a uniform format for residence permits	Article 63(3)(a) TEC
SCH/Com-ex (97) 35 15.12.1997	Amendment to the C.SIS Financial Regulations	for the record
SCH/Com-ex (97) 39 Rev 15.12.1997	Guiding Principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States	Articles 62(3), 63(3) TEC
SCH/Com-ex (98) 1, 2 Rev 21.4.1998	Report on the activities of the task force	Article 62(2)(a) TEC
SCH/Com-ex (98) 10 21.4.1998	Cooperation between the Contracting Parties in returning aliens by air	Articles 62(3), 63(3) TEC
SCH/Com-ex (98) 11 21.4.1998	C.SIS with 15/18 connections	for the record
SCH/Com-ex (98) 12 21.4.1998	Exchange at local level of statistics on visas	Article 62(2)(b) TEC
SCH/Com-ex (98) 17 23.6.1998	Confidential nature of certain documents	Article 41 TEU, Article 207 TEC
SCH/Com-ex (98) 18 Rev 23.6.1998	Measures to be taken in respect of countries posing problems with regard to the issue of documents required to remove their nationals from Schengen territory READMISSION — VISAS	Article 62(3) TEC
SCH/Com-ex (98) 19 23.6.1998	Monaco VISAS — EXTERNAL BORDERS — SIS	Article 62(3) TEC
SCH/Com-ex (98) 21 23.6.1998	Stamping of passports of visa applicants VISAS	Article 62(2)(b) TEC, with due regard for Article 64(2) TEC
SCH/Com-ex (98) 26 def 16.9.1998	Setting up of the Schengen implementing Convention Standing Committee	Article 66 TEC, Articles 30, 31 TEU
SCH/Com-ex (98) 29 Rev 23.6.1998	Catch-all clause to cover the whole technical Schengen acquis	for the record

Decision	Subject	EU legal basis
SCH/Com-ex (98) 35 Rev 2 16.9.1998	Forwarding the Common Manual to EU applicant States	Article 41 TEU, Article 207 TEC
SCH/Com-ex (98) 37 def 2 16.9.1998	Action plan to combat illegal immigration	Articles 62, 63 TEC, Article 30 TEU
SCH/Com-ex (98) 43 Rev 16.12.1998	Ad hoc Committee for Greece	Article 2 in conjunction with Annex to Schengen Protocol
SCH/Com-ex (98) 49 Rev 3 16.12.1998	Bringing the Convention implementing the Schengen Agreement into force in Greece	Article 2 in conjunction with Annex to Schengen Protocol
SCH/Com-ex (98) 51 Rev 3 16.12.1998	Cross-border police cooperation in the area of crime prevention and detection when requested	Article 30 TEU
SCH/Com-ex (98) 52 16.12.1998	Handbook on cross-border police cooperation	Article 30 TEU
SCH/Com-ex (98) 53 Rev 2 16.12.1998	Harmonisation of visa policy — abolition of the grey lists	Article 62(2)(b) TEC, with due regard for Article 64(2) TEC
SCH/Com-ex (98) 56 16.12.1998	Manual of documents to which a visa may be affixed	Article 62(2)(b) ii TEC
SCH/Com-ex (98) 57 16.12.1998	Introduction of a harmonised form for invitations, proof of accommodation, and the acceptance of obligations of maintenance support	Article 62(2)(b) TEC, with due regard for Article 64(2) TEC
SCH/Com-ex (98) 59 Rev 16.12.1998	Coordinated deployment of document advisers	Article 62(2)(b) TEC, Article 63(3) TEC
SCH/Com-ex (99) 3 28.4.1999	Help Desk budget for 1999	for the record
SCH/Com-ex (99) 4 28.4.1999	C.SIS installation costs	for the record
SCH/Com-ex (99) 5 28.4.1999	SIRENE Manual	for the record
SCH/Com-ex (99) 6 28.4.1999	Telecomms situation	Article 30 TEU
SCH/Com-ex (99) 7 Rev 2 28.4.1999	Liaison officers	Article 30 TEU
SCH/Com-ex (99) 8 Rev 2 28.4.1999	Payments to informers	Article 30 TEU
SCH/Com-ex (99) 10 28.4.1999	Illegal trade in weapons	Article 95 TEC
SCH/Com-ex (99) 11 Rev 2 28.4.1999	Agreement on cooperation in proceedings for road traffic offences	Article 31 TEU
SCH/Com-ex (99) 13 28.4.1999	Withdrawal of old versions of the Common Manual and the Common Consular Instructions and Adoption of new versions	Articles 62, 63 TEC
SCH/Com-ex (99) 14 28.4.1999	Manual of documents on which a visa may be affixed	Article 62 TEC
SCH/Com-ex (99) 18 28.4.1999	Improvement of police cooperation in preventing and detecting offences	Article 30 TEU

Declarations of the Executive Committee

Declaration	Subject	EU legal basis
SCH/Com-ex (96) Decl 5 18.4.1996	Determination of the concept of third-contry 'alien'	for the record
SCH/Com-ex (96) Decl 6 Rev 2 26.6.1996	Declaration on extradition	Article 31(b) TEU in conjunction with Article 34 TEU
SCH/Com-ex (97) Decl 13 Rev 2 21.4.1998	Abduction of minors	Article 31(a), 34 TEU
SCH/Com-ex (99) Decl 2 Rev 28.4.1999	SIS-structure	For the record

ANNEX D

Article 5

DECISIONS OF THE CENTRAL GROUP

Declaration	Subject	EU legal basis
SCH/C (98) 117 27.10.1998	Action plan to combat illegal immigration	Articles 62, 63 TEC, Article 30 TEU
SCH/C (99) 25 22.3.1999	General principles for the remuneration of informants and infiltrators	Article 30 TEU

STATEMENTS

1. The Council has made the following statement when the Decision was adopted:

   'Notwithstanding the determination of legal bases for Article 2(2) and (3), Article 4(1) to (3), Article 5(1)(e) and Article 8 of the Convention implementing the Schengen Agreement, in conformity with the relevant provisions of the Treaties, the responsibilities and powers of the Member States with regard to surveillance measures, including at their borders, for the purposes of maintaining law and order and safeguarding internal security in accordance with national law, and through the means at their disposal, shall remain unaffected.'

2. The Member States within the Council have made the following statement with respect to Member States listed in Article 1 of the Schengen Protocol:

   'The inclusion of the first declaration of the Final Act of the Convention implementing the Schengen Agreement in this Decision must be interpreted as signifiying that the decision confirming the capacity of each State acceding to the EU to implement the Schengen acquis, thus permitting the removal of controls at internal frontiers, will be taken unanimously by the Council comprised of the Member States named in Article 1 of the Schengen Protocol.'

3. The Commission has made the following statement:

   Statement on the Schengen Implementing Convention Standing Committee

   'In accordance with Article 1 of the Protocol integrating the Schengen acquis into the framework of the European Union, closer cooperation on Schengen matters "shall be conducted within the institutional and legal framework of the European Union and with respect for the relevant provisions of the Treaty on European Union and the Treaty establishing the European Community". The Commission therefore considers that the integration into the Union framework of the Decision of the Executive Committtee setting up a Schengen Implementing Convention Standing Committee (SCH/Com-ex (98) 26 Def of 16.9.1998) does not in any way affect the powers devolving on it from the Treaties and in particular its responsibility as guardian of the Treaties.'

4. Statement made by the Netherlands delegation when the Council Decision determining the legal bases for the Schengen acquis was adopted:

   'The Netherlands considers that provisions of Title IV of Part Three of the EC Treaty should be the legal basis for a number of decisions and provisions of the Schengen acquis concerning the Schengen Information System since the latter relate to aspects of the free movement of persons which touch on aliens' law.'

   Belgium associates itself with the statement made by the Netherlands delegation.

I

(Acts whose publication is obligatory)

REGULATION (EC) No 562/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 62(1) and (2)(a) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty [1],

Whereas:

(1) The adoption of measures under Article 62(1) of the Treaty with a view to ensuring the absence of any controls on persons crossing internal borders forms part of the Union's objective of establishing an area without internal borders in which the free movement of persons is ensured, as set out in Article 14 of the Treaty.

(2) In accordance with Article 61 of the Treaty, the creation of an area in which persons may move freely is to be flanked by other measures. The common policy on the crossing of external borders, as provided for by Article 62(2) of the Treaty, is such a measure.

(3) The adoption of common measures on the crossing of internal borders by persons and border control at external borders should reflect the Schengen *acquis* incorporated in the European Union framework, and in particular the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders [2] and the Common Manual [3].

(4) As regards border control at external borders, the establishment of a 'common corpus' of legislation, particularly via consolidation and development of the *acquis*, is one of the fundamental components of the common policy on the management of the external borders, as defined in the Commission Communication of 7 May 2002 'Towards integrated management of the external borders of the Member States of the European Union'. This objective was included in the 'Plan for the management of the external borders of the Member States of the European Union', approved by the Council on 13 June 2002 and endorsed by the Seville European Council on 21 and 22 June 2002 and by the Thessaloniki European Council on 19 and 20 June 2003.

(5) The definition of common rules on the movement of persons across borders neither calls into question nor affects the rights of free movement enjoyed by Union citizens and members of their families and by third-country nationals and members of their families who, under agreements between the Community and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens.

(6) Border control is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control. Border control should help to combat illegal immigration and trafficking in human beings and to prevent any threat to the Member States' internal security, public policy, public health and international relations.

(7) Border checks should be carried out in such a way as to fully respect human dignity. Border control should be carried out in a professional and respectful manner and be proportionate to the objectives pursued.

(8) Border control comprises not only checks on persons at border crossing points and surveillance between these border crossing points, but also an analysis of the risks for internal security and analysis of the threats that may affect the security of external borders. It is therefore necessary to lay down the conditions, criteria and detailed rules governing checks at border crossing points and surveillance.

[1] Opinion of the European Parliament of 23 June 2005 (not yet published in the Official Journal) and Council Decision of 21 February 2006.

[2] OJ L 239, 22.9.2000, p. 19. Convention as last amended by Regulation (EC) No 1160/2005 of the European Parliament and of the Council (OJ L 191, 22.7.2005, p. 18).

[3] OJ C 313, 16.12.2002, p. 97. Common Manual as last amended by Council Regulation (EC) No 2133/2004 (OJ L 369, 16.12.2004, p. 5).

(9) Provision should be made for relaxing checks at external borders in the event of exceptional and unforeseeable circumstances in order to avoid excessive waiting time at borders crossing-points. The systematic stamping of the documents of third-country nationals remains an obligation in the event of border checks being relaxed. Stamping makes it possible to establish, with certainty, the date on which, and where, the border was crossed, without establishing in all cases that all required travel document control measures have been carried out.

(10) In order to reduce the waiting times of persons enjoying the Community right of free movement, separate lanes, indicated by uniform signs in all Member States, should, where circumstances allow, be provided at border crossing points. Separate lanes should be provided in international airports. Where it is deemed appropriate and if local circumstances so allow, Member States should consider installing separate lanes at sea and land border crossing points.

(11) Member States should ensure that control procedures at external borders do not constitute a major barrier to trade and social and cultural interchange. To that end, they should deploy appropriate numbers of staff and resources.

(12) Member States should designate the national service or services responsible for border-control tasks in accordance with their national law. Where more than one service is responsible in the same Member State, there should be close and constant cooperation between them.

(13) Operational cooperation and assistance between Member States in relation to border control should be managed and coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States established by Regulation (EC) No 2007/2004 ([1]).

(14) This Regulation is without prejudice to checks carried out under general police powers and security checks on persons identical to those carried out for domestic flights, to the possibilities for Member States to carry out exceptional checks on baggage in accordance with Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing ([2]), and to national law on carrying travel or identity documents or to the requirement that persons notify the authorities of their presence on the territory of the Member State in question.

(15) Member States should also have the possibility of temporarily reintroducing border control at internal borders in the event of a serious threat to their public policy or internal security. The conditions and procedures for doing so should be laid down, so as to ensure that any such measure is exceptional and that the principle of proportionality is respected. The scope and duration of any temporary reintroduction of border control at internal borders should be restricted to the bare minimum needed to respond to that threat.

(16) In an area where persons may move freely, the reintroduction of border control at internal borders should remain an exception. Border control should not be carried out or formalities imposed solely because such a border is crossed.

(17) Provision should be made for a procedure enabling the Commission to adapt certain detailed practical rules governing border control. In such cases, the measures needed to implement this Regulation should be taken pursuant to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([3]).

(18) Provision should also be made for a procedure enabling the Member States to notify the Commission of changes to other detailed practical rules governing border control.

(19) Since the objective of this Regulation, namely the establishment of rules applicable to the movement of persons across borders cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(20) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. It should be applied in accordance with the Member States' obligations as regards international protection and non-refoulement.

(21) By way of derogation from Article 299 of the Treaty, the only territories of France and the Netherlands to which this Regulation applies are those in Europe. It does not affect the specific arrangements applied in Ceuta and Melilla, as defined in the Agreement on the Accession of the Kingdom of Spain to the Convention implementing the Schengen Agreement of 14 June 1985 ([4]).

([1]) Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

([2]) OJ L 374, 31.12.1991, p. 4. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

([3]) OJ L 184, 17.7.1999, p. 23.

([4]) OJ L 239, 22.9.2000, p. 69.

(22) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark should, in accordance with Article 5 of the said Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law or not.

(23) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis* ([1]) which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC ([2]) on certain arrangements for the application of that Agreement.

(24) An arrangement has to be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers. Such an arrangement has been contemplated in the Exchanges of Letters between the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning committees which assist the European Commission in the exercise of its executive powers ([3]), annexed to the abovementioned Agreement.

(25) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 4(1) of Council Decisions 2004/849/EC ([4]) and 2004/860/EC ([5]).

(26) An arrangement has to be made to allow representatives of Switzerland to be associated with the work of committees assisting the Commission in the exercise of its implementing powers. Such an arrangement has been contemplated in the Exchange of Letters between the Community and Switzerland, annexed to the abovementioned Agreement.

(27) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ([6]). The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(28) This Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ([7]). Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(29) In this Regulation, the first sentence of Article 1, Article 5(4)(a), Title III and the provisions of Title II and the annexes thereto referring to the Schengen Information System (SIS) constitute provisions building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter and principles

This Regulation provides for the absence of border control of persons crossing the internal borders between the Member States of the European Union.

It establishes rules governing border control of persons crossing the external borders of the Member States of the European Union.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. 'internal borders' means:

   (a) the common land borders, including river and lake borders, of the Member States;

([1]) OJ L 176, 10.7.1999, p. 36.
([2]) OJ L 176, 10.7.1999, p. 31.
([3]) OJ L 176, 10.7.1999, p. 53.
([4]) Council Decision 2004/849/EC of 25 October 2004 on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 368, 15.12.2004, p. 26).
([5]) Council Decision 2004/860/EC of 25 October 2004 on the signing, on behalf of the European Community, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation, concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 370, 17.12.2004, p. 78).
([6]) OJ L 131, 1.6.2000, p. 43.
([7]) OJ L 64, 7.3.2002, p. 20.

(b) the airports of the Member States for internal flights;

(c) sea, river and lake ports of the Member States for regular ferry connections;

2. 'external borders' means the Member States' land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports, provided that they are not internal borders;

3. 'internal flight' means any flight exclusively to or from the territories of the Member States and not landing in the territory of a third country;

4. 'regular ferry connection' means any ferry connection between the same two or more ports situated in the territory of the Member States, not calling at any ports outside the territory of the Member States and consisting of the transport of passengers and vehicles according to a published timetable;

5. 'persons enjoying the Community right of free movement' means:

(a) Union citizens within the meaning of Article 17(1) of the Treaty, and third-country nationals who are members of the family of a Union citizen exercising his or her right to free movement to whom Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States [1] applies;

(b) third-country nationals and their family members, whatever their nationality, who, under agreements between the Community and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens;

6. 'third-country national' means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty and who is not covered by point 5 of this Article;

7. 'persons for whom an alert has been issued for the purposes of refusing entry' means any third-country national for whom an alert has been issued in the Schengen Information System (SIS) in accordance with and for the purposes laid down in Article 96 of the Schengen Convention;

8. 'border crossing point' means any crossing-point authorised by the competent authorities for the crossing of external borders;

9. 'border control' means the activity carried out at a border, in accordance with and for the purposes of this Regulation, in response exclusively to an intention to cross or the act of crossing that border, regardless of any other consideration, consisting of border checks and border surveillance;

10. 'border checks' means the checks carried out at border crossing points, to ensure that persons, including their means of transport and the objects in their possession, may be authorised to enter the territory of the Member States or authorised to leave it;

11. 'border surveillance' means the surveillance of borders between border crossing points and the surveillance of border crossing points outside the fixed opening hours, in order to prevent persons from circumventing border checks;

12. 'second line check' means a further check which may be carried out in a special location away from the location at which all persons are checked (first line);

13. 'border guard' means any public official assigned, in accordance with national law, to a border crossing point or along the border or the immediate vicinity of that border who carries out, in accordance with this Regulation and national law, border control tasks;

14. 'carrier' means any natural or legal person whose profession it is to provide transport of persons;

15. 'residence permit' means:

(a) all residence permits issued by the Member States according to the uniform format laid down by Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals [2];

(b) all other documents issued by a Member State to third-country nationals authorising a stay in, or re-entry into, its territory, with the exception of temporary permits issued pending examination of a first application for a residence permit as referred to in point (a) or an application for asylum;

16. 'cruise ship' means a ship which follows a given itinerary in accordance with a predetermined programme, which includes a programme of tourist activities in the various ports, and which normally neither takes passengers on nor allows passengers to disembark during the voyage;

17. 'pleasure boating' means the use of pleasure boats for sporting or tourism purposes;

18. 'coastal fisheries' means fishing carried out with the aid of vessels which return every day or within 36 hours to a port situated in the territory of a Member State without calling at a port situated in a third country;

[1] OJ L 158, 30.4.2004, p. 77.

[2] OJ L 157, 15.6.2002, p. 1.

19. 'threat to public health' means any disease with epidemic potential as defined by the International Health Regulations of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to nationals of the Member States.

Article 3

Scope

This Regulation shall apply to any person crossing the internal or external borders of Member States, without prejudice to:

(a) the rights of persons enjoying the Community right of free movement;

(b) the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

TITLE II

EXTERNAL BORDERS

CHAPTER I

Crossing of external borders and conditions for entry

Article 4

Crossing of external borders

1. External borders may be crossed only at border crossing points and during the fixed opening hours. The opening hours shall be clearly indicated at border crossing points which are not open 24 hours a day.

Member States shall notify the list of their border crossing points to the Commission in accordance with Article 34.

2. By way of derogation from paragraph 1, exceptions to the obligation to cross external borders only at border crossing points and during the fixed opening hours may be allowed:

(a) in connection with pleasure boating or coastal fishing;

(b) for seamen going ashore to stay in the area of the port where their ships call or in the adjacent municipalities;

(c) for individuals or groups of persons, where there is a requirement of a special nature, provided that they are in possession of the permits required by national law and that there is no conflict with the interests of public policy and the internal security of the Member States;

(d) for individuals or groups of persons in the event of an unforeseen emergency situation.

3. Without prejudice to the exceptions provided for in paragraph 2 or to their international protection obligations, Member States shall introduce penalties, in accordance with their national law, for the unauthorised crossing of external borders at places other than border crossing points or at times other than the fixed opening hours. These penalties shall be effective, proportionate and dissuasive.

Article 5

Entry conditions for third-country nationals

1. For stays not exceeding three months per six-month period, the entry conditions for third-country nationals shall be the following:

(a) they are in possession of a valid travel document or documents authorising them to cross the border;

(b) they are in possession of a valid visa, if required pursuant to Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement [1], except where they hold a valid residence permit;

(c) they justify the purpose and conditions of the intended stay, and they have sufficient means of subsistence, both for the duration of the intended stay and for the return to their country of origin or transit to a third country into which they are certain to be admitted, or are in a position to acquire such means lawfully;

(d) they are not persons for whom an alert has been issued in the SIS for the purposes of refusing entry;

(e) they are not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States, in particular where no alert has been issued in Member States' national data bases for the purposes of refusing entry on the same grounds.

2. A non-exhaustive list of supporting documents which the border guard may request from the third-country national in order to verify the fulfilment of the conditions set out in paragraph 1, point c, is included in Annex I.

3. Means of subsistence shall be assessed in accordance with the duration and the purpose of the stay and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, multiplied by the number of days stayed.

[1] OJ L 81, 21.3.2001, p. 1. Regulation as last amended by Regulation (EC) No 851/2005 (OJ L 141, 4.6.2005, p. 3).

Reference amounts set by the Member States shall be notified to the Commission in accordance with Article 34.

The assessment of sufficient means of subsistence may be based on the cash, travellers' cheques and credit cards in the third-country national's possession. Declarations of sponsorship, where such declarations are provided for by national law and letters of guarantee from hosts, as defined by national law, where the third-country national is staying with a host, may also constitute evidence of sufficient means of subsistence.

4. By way of derogation from paragraph 1:

(a) third-country nationals who do not fulfil all the conditions laid down in paragraph 1 but hold a residence permit or a re-entry visa issued by one of the Member States or, where required, both documents, shall be authorised to enter the territories of the other Member States for transit purposes so that they may reach the territory of the Member State which issued the residence permit or re-entry visa, unless their names are on the national list of alerts of the Member State whose external borders they are seeking to cross and the alert is accompanied by instructions to refuse entry or transit;

(b) third-country nationals who fulfil the conditions laid down in paragraph 1, except for that laid down in point (b), and who present themselves at the border may be authorised to enter the territories of the Member States, if a visa is issued at the border in accordance with Council Regulation (EC) No 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit [1].

Visas issued at the border shall be recorded on a list.

If it is not possible to affix a visa in the document, it shall, exceptionally, be affixed on a separate sheet inserted in the document. In such a case, the uniform format for forms for affixing the visa, laid down by Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form [2], shall be used;

(c) third-country nationals who do not fulfil one or more of the conditions laid down in paragraph 1 may be authorised by a Member State to enter its territory on humanitarian grounds, on grounds of national interest or because of international obligations. Where the third-country national concerned is the subject of an alert as referred to in paragraph 1(d), the Member State authorising him or her to enter its territory shall inform the other Member States accordingly.

[1] OJ L 64, 7.3.2003, p. 1.
[2] OJ L 53, 23.2.2002, p. 4.

CHAPTER II

Control of external borders and refusal of entry

Article 6

Conduct of border checks

1. Border guards shall, in the performance of their duties, fully respect human dignity.

Any measures taken in the performance of their duties shall be proportionate to the objectives pursued by such measures.

2. While carrying out border checks, border guards shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 7

Border checks on persons

1. Cross-border movement at external borders shall be subject to checks by border guards. Checks shall be carried out in accordance with this chapter.

The checks may also cover the means of transport and objects in the possession of the persons crossing the border. The law of the Member State concerned shall apply to any searches which are carried out.

2. All persons shall undergo a minimum check in order to establish their identities on the basis of the production or presentation of their travel documents. Such a minimum check shall consist of a rapid and straightforward verification, where appropriate by using technical devices and by consulting, in the relevant databases, information exclusively on stolen, misappropriated, lost and invalidated documents, of the validity of the document authorising the legitimate holder to cross the border and of the presence of signs of falsification or counterfeiting.

The minimum check referred to in the first subparagraph shall be the rule for persons enjoying the Community right of free movement.

However, on a non-systematic basis, when carrying out minimum checks on persons enjoying the Community right of free movement, border guards may consult national and European databases in order to ensure that such persons do not represent a genuine, present and sufficiently serious threat to the internal security, public policy, international relations of the Member States or a threat to the public health.

The consequences of such consultations shall not jeopardise the right of entry of persons enjoying the Community right of free movement into the territory of the Member State concerned as laid down in Directive 2004/38/EC.

3. On entry and exit, third-country nationals shall be subject to thorough checks.

(a) thorough checks on entry shall comprise verification of the conditions governing entry laid down in Article 5(1) and, where applicable, of documents authorising residence and the pursuit of a professional activity. This shall include a detailed examination covering the following aspects:

(i) verification that the third-country national is in possession of a document which is valid for crossing the border and which has not expired, and that the document is accompanied, where applicable, by the requisite visa or residence permit;

(ii) thorough scrutiny of the travel document for signs of falsification or counterfeiting;

(iii) examination of the entry and exit stamps on the travel document of the third-country national concerned, in order to verify, by comparing the dates of entry and exit, that the person has not already exceeded the maximum duration of authorised stay in the territory of the Member States;

(iv) verification regarding the point of departure and the destination of the third-country national concerned and the purpose of the intended stay, checking if necessary, the corresponding supporting documents;

(v) verification that the third-country national concerned has sufficient means of subsistence for the duration and purpose of the intended stay, for his or her return to the country of origin or transit to a third country into which he or she is certain to be admitted, or that he or she is in a position to acquire such means lawfully;

(vi) verification that the third-country national concerned, his or her means of transport and the objects he or she is transporting are not likely to jeopardise the public policy, internal security, public health or international relations of any of the Member States. Such verification shall include direct consultation of the data and alerts on persons and, where necessary, objects included in the SIS and in national data files and the action to be performed, if any, as a result of an alert;

(b) thorough checks on exit shall comprise:

(i) verification that the third-country national is in possession of a document valid for crossing the border;

(ii) verification of the travel document for signs of falsification or counterfeiting;

(iii) whenever possible, verification that the third-country national is not considered to be a threat to public policy, internal security or the international relations of any of the Member States;

(c) In addition to the checks referred to in point (b) thorough checks on exit may also comprise:

(i) verification that the person is in possession of a valid visa, if required pursuant to Regulation (EC) No 539/2001, except where he or she holds a valid residence permit;

(ii) verification that the person did not exceed the maximum duration of authorised stay in the territory of the Member States;

(iii) consultation of alerts on persons and objects included in the SIS and reports in national data files.

4. Where facilities exist and if requested by the third-country national, such thorough checks shall be carried out in a private area.

5. Third-country nationals subject to a thorough second line check shall be given information on the purpose of, and procedure for, such a check.

This information shall be available in all the official languages of the Union and in the language(s) of the country or countries bordering the Member State concerned and shall indicate that the third-country national may request the name or service identification number of the border guards carrying out the thorough second line check, the name of the border crossing point and the date on which the border was crossed.

6. Checks on a person enjoying the Community right on free movement shall be carried out in accordance with Directive 2004/38/EC.

7. Detailed rules governing the information to be registered are laid down in Annex II.

Article 8

Relaxation of border checks

1. Border checks at external borders may be relaxed as a result of exceptional and unforeseen circumstances. Such exceptional and unforeseen circumstances shall be deemed to be those where unforeseeable events lead to traffic of such intensity that the waiting time at the border crossing point becomes excessive, and all resources have been exhausted as regards staff, facilities and organisation.

2. Where border checks are relaxed in accordance with paragraph 1, border checks on entry movements shall in principle take priority over border checks on exit movements.

The decision to relax checks shall be taken by the border guard in command at the border crossing point.

Such relaxation of checks shall be temporary, adapted to the circumstances justifying it and introduced gradually.

3. Even in the event that checks are relaxed, the border guard shall stamp the travel documents of third-country nationals both on entry and exit, in accordance with Article 10.

4. Each Member State shall transmit once a year a report on the application of this Article to the European Parliament and the Commission.

Article 9

Separate lanes and information on signs

1. Member States shall provide separate lanes, in particular at air border crossing points in order to carry out checks on persons, in accordance with Article 7. Such lanes shall be differentiated by means of the signs bearing the indications set out in the Annex III.

Member States may provide separate lanes at their sea and land border crossing points and at borders between Member States not applying Article 20 at their common borders. The signs bearing the indications set out in the Annex III shall be used if Member States provide separate lanes at those borders.

Member States shall ensure that such lanes are clearly signposted, including where the rules relating to the use of the different lanes are waived as provided for in paragraph 4, in order to ensure optimal flow levels of persons crossing the border.

2. (a) Persons enjoying the Community right of free movement are entitled to use the lanes indicated by the sign in part A of Annex III. They may also use the lanes indicated by the sign in part B of Annex III.

(b) All other persons shall use the lanes indicated by the sign in part B of Annex III.

The indications on the signs referred to in points (a) and (b) may be displayed in such language or languages as each Member State considers appropriate.

3. At sea and land border crossing points, Member States may separate vehicle traffic into different lanes for light and heavy vehicles and buses by using signs as shown in Part C of Annex III.

Member States may vary the indications on those signs where appropriate in the light of local circumstances.

4. In the event of a temporary imbalance in traffic flows at a particular border crossing point, the rules relating to the use of the different lanes may be waived by the competent authorities for the time necessary to eliminate such imbalance.

5. The adaptation of existing signs to the provisions of paragraphs 1, 2 and 3 shall be completed by 31 May 2009. Where Member States replace existing signs or put up new ones before that date, they shall comply with the indications provided for in those paragraphs.

Article 10

Stamping of the travel documents of third-country nationals

1. The travel documents of third-country nationals shall be systematically stamped on entry and exit. In particular an entry or exit stamp shall be affixed to:

(a) the documents, bearing a valid visa, enabling third-country nationals to cross the border;

(b) the documents enabling third-country nationals to whom a visa is issued at the border by a Member State to cross the border;

(c) the documents enabling third-country nationals not subject to a visa requirement to cross the border.

2. The travel documents of nationals of third countries who are members of the family of a Union citizen to whom Directive 2004/38/EC applies, but who do not present the residence card provided for in Article 10 of that Directive, shall be stamped on entry or exit.

The travel documents of nationals of third countries who are members of the family of nationals of third countries enjoying the Community right of free movement, but who do not present the residence card provided for in Article 10 of Directive 2004/38/EC, shall be stamped on entry or exit.

3. No entry or exit stamp shall be affixed:

(a) to the travel documents of Heads of State and dignitaries whose arrival has been officially announced in advance through diplomatic channels;

(b) to pilots' licences or the certificates of aircraft crew members;

(c) to the travel documents of seamen who are present within the territory of a Member State only when their ship puts in and in the area of the port of call;

(d) to the travel documents of crew and passengers of cruise ships who are not subject to border checks in accordance with point 3.2.3 of Annex VI;

(e) to documents enabling nationals of Andorra, Monaco and San Marino to cross the border.

Exceptionally, at the request of a third-country national, insertion of an entry or exit stamp may be dispensed with if insertion might cause serious difficulties for that person. In that case, entry or exit shall be recorded on a separate sheet indicating the name and passport number. That sheet shall be given to the third-country national.

4. The practical arrangements for stamping are set out in Annex IV.

5. Whenever possible, third-country nationals shall be informed of the border guard's obligation to stamp their travel document on entry and exit, even where checks are relaxed in accordance with Article 8.

6. The Commission shall report to the European Parliament and the Council by the end of 2008 on the operation of the provisions on stamping travel documents.

Article 11

Presumption as regards fulfilment of conditions of duration of stay

1. If the travel document of a third-country national does not bear an entry stamp, the competent national authorities may presume that the holder does not fulfil, or no longer fulfils, the conditions of duration of stay applicable within the Member State concerned.

2. The presumption referred to in paragraph 1 may be rebutted where the third-country national provides, by any means, credible evidence, such as transport tickets or proof of his or her presence outside the territory of the Member States, that he or she has respected the conditions relating to the duration of a short stay.

In such a case:

(a) where the third-country national is found on the territory of a Member State applying the Schengen *acquis* in full, the competent authorities shall indicate, in accordance with national law and practice, in his or her travel document the date on which, and the place where, he or she crossed the external border of one of the Member States applying the Schengen *acquis* in full;

(b) where the third-country national is found on the territory of a Member State in respect of which the decision contemplated in Article 3(2) of the 2003 Act of Accession has not been taken, the competent authorities shall indicate, in accordance with national law and practice, in his or her travel document the date on which, and the place where, he or she crossed the external border of such a Member State.

In addition to the indications referred to in points (a) and (b), a form as shown in Annex VIII may be given to the third-country national.

Member States shall inform each other and the Commission and the Council General Secretariat of their national practices with regard to the indications referred to in this Article.

3. Should the presumption referred to in paragraph 1 not be rebutted, the third-country national may be expelled by the competent authorities from the territory of the Member States concerned.

Article 12

Border surveillance

1. The main purpose of border surveillance shall be to prevent unauthorised border crossings, to counter cross-border criminality and to take measures against persons who have crossed the border illegally.

2. The border guards shall use stationary or mobile units to carry out border surveillance.

That surveillance shall be carried out in such a way as to prevent and discourage persons from circumventing the checks at border crossing points.

3. Surveillance between border crossing points shall be carried out by border guards whose numbers and methods shall be adapted to existing or foreseen risks and threats. It shall involve frequent and sudden changes to surveillance periods, so that unauthorised border crossings are always at risk of being detected.

4. Surveillance shall be carried out by stationary or mobile units which perform their duties by patrolling or stationing themselves at places known or perceived to be sensitive, the aim of such surveillance being to apprehend individuals crossing the border illegally. Surveillance may also be carried out by technical means, including electronic means.

5. Additional rules governing surveillance may be adopted in accordance with the procedure referred to in Article 33(2).

Article 13

Refusal of entry

1. A third-country national who does not fulfil all the entry conditions laid down in Article 5(1) and does not belong to the categories of persons referred to in Article 5(4) shall be refused entry to the territories of the Member States. This shall be without prejudice to the application of special provisions concerning the right of asylum and to international protection or the issue of long-stay visas.

2. Entry may only be refused by a substantiated decision stating the precise reasons for the refusal. The decision shall be taken by an authority empowered by national law. It shall take effect immediately.

The substantiated decision stating the precise reasons for the refusal shall be given by means of a standard form, as set out in Annex V, Part B, filled in by the authority empowered by national law to refuse entry. The completed standard form shall be handed to the third-country national concerned, who shall acknowledge receipt of the decision to refuse entry by means of that form.

3. Persons refused entry shall have the right to appeal. Appeals shall be conducted in accordance with national law. A written indication of contact points able to provide information on representatives competent to act on behalf of the third-country national in accordance with national law shall also be given to the third-country national.

Lodging such an appeal shall not have suspensive effect on a decision to refuse entry.

Without prejudice to any compensation granted in accordance with national law, the third-country national concerned shall, where the appeal concludes that the decision to refuse entry was ill-founded, be entitled to correction of the cancelled entry stamp, and any other cancellations or additions which have been made, by the Member State which refused entry.

4. The border guards shall ensure that a third-country national refused entry does not enter the territory of the Member State concerned.

5. Member States shall collect statistics on the number of persons refused entry, the grounds for refusal, the nationality of the persons refused and the type of border (land, air or sea) at which they were refused entry. Member States shall transmit those statistics once a year to the Commission. The Commission shall publish every two years a compilation of the statistics provided by the Member States.

6. Detailed rules governing refusal of entry are given in Part A of Annex V.

CHAPTER III

Staff and resources for border control and cooperation between Member States

Article 14

Staff and resources for border control

Member States shall deploy appropriate staff and resources in sufficient numbers to carry out border control at the external borders, in accordance with Articles 6 to 13, in such a way as to ensure an efficient, high and uniform level of control at their external borders.

Article 15

Implementation of controls

1. The border control provided for by Articles 6 to 13 shall be carried out by border guards in accordance with the provisions of this Regulation and with national law.

When carrying out that border control, the powers to instigate criminal proceedings conferred on border guards by national law and falling outside the scope of this Regulation shall remain unaffected.

Member States shall ensure that the border guards are specialised and properly trained professionals. Member States shall encourage border guards to learn languages, in particular those necessary for the carrying-out of their tasks.

2. Member States shall notify to the Commission the list of national services responsible for border control under their national law in accordance with Article 34.

3. To control borders effectively, each Member State shall ensure close and constant cooperation between its national services responsible for border control.

Article 16

Cooperation between Member States

1. The Member States shall assist each other and shall maintain close and constant cooperation with a view to the effective implementation of border control, in accordance with Articles 6 to 15. They shall exchange all relevant information.

2. Operational cooperation between Member States in the field of management of external borders shall be coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States (hereinafter referred to as the Agency) established by Regulation (EC) No 2007/2004.

3. Without prejudice to the competences of the Agency, Member States may continue operational cooperation with other Member States and/or third countries at external borders, including the exchange of liaison officers, where such cooperation complements the action of the Agency.

Member States shall refrain from any activity which could jeopardise the functioning of the Agency or the attainment of its objectives.

Member States shall report to the Agency on the operational cooperation referred to in the first subparagraph.

4. Member States shall provide for training on the rules for border control and on fundamental rights. In that regard, account shall be taken of the common training standards as established and further developed by the Agency.

Article 17

Joint control

1. Member States which do not apply Article 20 to their common land borders may, up to the date of application of that Article, jointly control those common borders, in which case a person may be stopped only once for the purpose of carrying out entry and exit checks, without prejudice to the individual responsibility of Member States arising from Articles 6 to 13.

To that end, Member States may conclude bilateral arrangements between themselves.

2. Member States shall inform the Commission of any arrangements concluded in accordance with paragraph 1.

CHAPTER IV

Specific rules for border checks

Article 18

Specific rules for the various types of border and the various means of transport used for crossing the external borders

The specific rules set out in Annex VI shall apply to the checks carried out at the various types of border and on the various means of transport used for crossing border crossing points.

Those specific rules may contain derogations from Articles 5 and 7 to 13.

Article 19

Specific rules for checks on certain categories of persons

1. The specific rules set out in Annex VII shall apply to checks on the following categories of persons:

(a) Heads of State and the members of their delegation(s);

(b) pilots of aircraft and other crew members;

(c) seamen;

(d) holders of diplomatic, official or service passports and members of international organisations;

(e) cross-border workers;

(f) minors.

Those specific rules may contain derogations from Articles 5 and 7 to 13.

2. Member States shall notify to the Commission the model cards issued by their Ministries of Foreign Affairs to accredited members of diplomatic missions and consular representations and members of their families in accordance with Article 34.

TITLE III

INTERNAL BORDERS

CHAPTER I

Abolition of border control at internal borders

Article 20

Crossing internal borders

Internal borders may be crossed at any point without a border check on persons, irrespective of their nationality, being carried out.

Article 21

Checks within the territory

The abolition of border control at internal borders shall not affect:

(a) the exercise of police powers by the competent authorities of the Member States under national law, insofar as the exercise of those powers does not have an effect equivalent to border checks; that shall also apply in border areas. Within the meaning of the first sentence, the exercise of police powers may not, in particular, be considered equivalent to the exercise of border checks when the police measures:

(i) do not have border control as an objective,

(ii) are based on general police information and experience regarding possible threats to public security and aim, in particular, to combat cross-border crime,

(iii) are devised and executed in a manner clearly distinct from systematic checks on persons at the external borders,

(iv) are carried out on the basis of spot-checks;

(b) security checks on persons carried out at ports and airports by the competent authorities under the law of each Member State, by port or airport officials or carriers, provided that such checks are also carried out on persons travelling within a Member State;

(c) the possibility for a Member State to provide by law for an obligation to hold or carry papers and documents;

(d) the obligation on third-country nationals to report their presence on the territory of any Member State pursuant to the provisions of Article 22 of the Schengen Convention.

Article 22

Removal of obstacles to traffic at road crossing-points at internal borders

Member States shall remove all obstacles to fluid traffic flow at road crossing-points at internal borders, in particular any speed limits not exclusively based on road-safety considerations.

At the same time, Member States shall be prepared to provide for facilities for checks in the event that internal border controls are reintroduced.

CHAPTER II

Temporary reintroduction of border control at internal borders

Article 23

Temporary reintroduction of border control at internal borders

1. Where there is a serious threat to public policy or internal security, a Member State may exceptionally reintroduce border control at its internal borders for a limited period of no more than 30 days or for the foreseeable duration of the serious threat if its duration exceeds the period of 30 days, in accordance with the procedure laid down in Article 24 or, in urgent cases, with that laid down in Article 25. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat.

2. If the serious threat to public policy or internal security persists beyond the period provided for in paragraph 1, the Member State may prolong border control on the same grounds as those referred to in paragraph 1 and, taking into account any new elements, for renewable periods of up to 30 days, in accordance with the procedure laid down in Article 26.

Article 24

Procedure for foreseeable events

1. Where a Member State is planning to reintroduce border control at internal borders under Article 23(1), it shall as soon as possible notify the other Member States and the Commission accordingly, and shall supply the following information as soon as available:

(a) the reasons for the proposed reintroduction, detailing the events that constitute a serious threat to public policy or internal security;

(b) the scope of the proposed reintroduction, specifying where border control is to be reintroduced;

(c) the names of the authorised crossing-points;

(d) the date and duration of the proposed reintroduction;

(e) where appropriate, the measures to be taken by the other Member States.

2. Following the notification from the Member State concerned, and with a view to the consultation provided for in paragraph 3, the Commission may issue an opinion without prejudice to Article 64(1) of the Treaty.

3. The information referred to in paragraph 1, as well as the opinion that the Commission may provide in accordance with paragraph 2, shall be the subject of consultations between the Member State planning to reintroduce border control, the other Member States and the Commission, with a view to organising, where appropriate, mutual cooperation between the Member States and to examining the proportionality of the measures to the events giving rise to the reintroduction of border control and the threats to public policy or internal security.

4. The consultation referred to in paragraph 3 shall take place at least fifteen days before the date planned for the reintroduction of border control.

Article 25

Procedure for cases requiring urgent action

1. Where considerations of public policy or internal security in a Member State demand urgent action to be taken, the Member State concerned may exceptionally and immediately reintroduce border control at internal borders.

2. The Member State reintroducing border control at internal borders shall notify the other Member States and the Commission accordingly, without delay, and shall supply the information referred to in Article 24(1) and the reasons that justify the use of this procedure.

Article 26

Procedure for prolonging border control at internal borders

1. Member States may only prolong border control at internal borders under the provisions of Article 23(2) after having notified the other Member States and the Commission.

2. The Member State planning to prolong border control shall supply the other Member States and the Commission with all relevant information on the reasons for prolonging the border control at internal borders. The provisions of Article 24(2) shall apply.

Article 27

Informing the European Parliament

The Member State concerned or, where appropriate, the Council shall inform the European Parliament as soon as possible of the measures taken under Articles 24, 25 and 26. As of the third consecutive prolongation pursuant to Article 26, the Member State concerned shall, if requested, report to the European Parliament on the need for border control at internal borders.

Article 28

Provisions to be applied where border control is reintroduce at internal borders

Where border control at internal borders is reintroduced, the relevant provisions of Title II shall apply *mutatis mutandis.*

Article 29

Report on the reintroduction of border control at internal borders

The Member State which has reintroduced border control at internal borders under Article 23 shall confirm the date on which that control is lifted and, at the same time or soon afterwards, present a report to the European Parliament, the Council and the Commission on the reintroduction of border control at internal borders, outlining, in particular, the operation of the checks and the effectiveness of the reintroduction of border control.

Article 30

Informing the public

The decision to reintroduce border control at internal borders shall be taken in a transparent manner and the public informed in full thereof, unless there are overriding security reasons for not doing so.

Article 31

Confidentiality

At the request of the Member State concerned, the other Member States, the European Parliament and the Commission shall respect the confidentiality of information supplied in connection with the reintroduction and prolongation of border control and the report drawn up under Article 29.

TITLE IV

FINAL PROVISIONS

Article 32

Amendments to the Annexes

Annexes III, IV and VIII shall be amended in accordance with the procedure referred to in Article 33(2).

Article 33

Committee

1. The Commission shall be assisted by a committee, hereinafter 'the Committee'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Regulation.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

4. Without prejudice to the implementing measures already adopted, the application of the provisions of this Regulation concerning the adoption of technical rules and decisions in accordance with the procedure referred in paragraph 2 shall be suspended four years after the entry into force of this Regulation. On a proposal from the Commission, the European Parliament and the Council may renew the provisions concerned in accordance with the procedure laid down in Article 251 of the Treaty and, to that end, shall review them prior to the expiry of the four-year period.

Article 34

Notifications

1. Member States shall notify the Commission of:

(a) the list of residence permits;

(b) the list of their border crossing points;

(c) the reference amounts required for the crossing of their external borders fixed annually by the national authorities;

(d) the list of national services responsible for border control;

(e) the specimen of model cards issued by Foreign Ministries.

2. The Commission shall make the information notified in conformity with paragraph 1 available to the Member States and the public through publication in the *Official Journal of the European Union*, C Series, and by any other appropriate means.

Article 35

Local border traffic

This Regulation shall be without prejudice to Community rules on local border traffic and to existing bilateral agreements on local border traffic.

Article 36

Ceuta and Melilla

The provisions of this Regulation shall not affect the special rules applying to the cities of Ceuta and Melilla, as defined in the Declaration by the Kingdom of Spain on the cities of Ceuta and Melilla in the Final Act to the Agreement on the Accession of the Kingdom of Spain to the Convention implementing the Schengen Agreement of 14 June 1985 [1].

[1] OJ L 239, 22.9.2000, p. 73.

Article 37

Notification of information by the Member States

By 26 October 2006, the Member States shall notify the Commission of national provisions relating to Article 21(c) and (d), the penalties as referred to in Article 4(3) and the bilateral arrangements concluded in accordance with Article 17(1). Subsequent changes to those provisions shall be notified within five working days.

The information notified by the Member States shall be published in the *Official Journal of the European Union*, C Series.

Article 38

Report on the application of Title III

The Commission shall submit to the European Parliament and the Council by 13 October 2009 a report on the application of Title III.

The Commission shall pay particular attention to any difficulties arising from the reintroduction of border control at internal borders. Where appropriate, it shall present proposals aimed at resolving such difficulties.

Article 39

Repeals

1. Articles 2 to 8 of the Convention implementing the Schengen Agreement of 14 June 1985 shall be repealed with effect from 13 October 2006.

2. The following shall be repealed with effect from the date referred to in paragraph 1:

(a) the Common Manual, including its annexes;

(b) the decisions of the Schengen Executive Committee of 26 April 1994 (SCH/Com-ex (94) 1, rev 2), 22 December 1994 (SCH/Com-ex (94)17, rev. 4) and 20 December 1995 (SCH/Com-ex (95) 20, rev. 2);

(c) Annex 7 to the Common Consular Instructions;

(d) Council Regulation (EC) No 790/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for carrying out border checks and surveillance [1];

(e) Council Decision 2004/581/EC of 29 April 2004 determining the minimum indications to be used on signs at external border crossing points [2];

(f) Council Decision 2004/574/EC of 29 April 2004 amending the Common Manual [3];

(g) Council Regulation (EC) No 2133/2004 of 13 December 2004 on the requirement for the competent authorities of the Member States to stamp systematically the travel documents of third country nationals when they cross the external borders of the Member States and amending the provisions of the Convention implementing the Schengen agreement and the Common Manual to this end [4].

3. References to the Articles deleted and instruments repealed shall be construed as references to this Regulation.

Article 40

Entry into force

This Regulation shall enter into force on 13 October 2006. However, Article 34 shall enter into force on the day after its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Strasbourg, 15 March 2006.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
H. WINKLER

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[1] OJ L 116, 26.4.2001, p. 5. Regulation amended by Decision 2004/927/EC (OJ L 396, 31.12.2004, p. 45).
[2] OJ L 261, 6.8.2004, p. 119.
[3] OJ L 261, 6.8.2004, p. 36.
[4] OJ L 369, 16.12.2004, p. 5.

ANNEX I

Supporting documents to verify the fulfilment of entry conditions

The documentary evidence referred to in Article 5(2) may include the following:

(a) for business trips:

(i) an invitation from a firm or an authority to attend meetings, conferences or events connected with trade, industry or work;

(ii) other documents which show the existence of trade relations or relations for work purposes;

(iii) entry tickets for fairs and congresses if attending one;

(b) for journeys undertaken for the purposes of study or other types of training:

(i) a certificate of enrolment at a teaching institute for the purposes of attending vocational or theoretical courses in the framework of basic and further training;

(ii) student cards or certificates for the courses attended;

(c) for journeys undertaken for the purposes of tourism or for private reasons:

(i) supporting documents as regards lodging:

— an invitation from the host if staying with one,

— a supporting document from the establishment providing lodging or any other appropriate document indicating the accommodation envisaged;

(ii) supporting documents as regards the itinerary:

confirmation of the booking of an organised trip or any other appropriate document indicating the envisaged travel plans;

(iii) supporting documents as regards return:

a return or round-trip ticket.

(d) for journeys undertaken for political, scientific, cultural, sports or religious events or other reasons:

invitations, entry tickets, enrolments or programmes stating wherever possible the name of the host organisation and the length of stay or any other appropriate document indicating the purpose of the visit.

ANNEX II

Registration of information

At all border crossing points, all service information and any other particularly important information shall be registered manually or electronically. The information to be registered shall include in particular:

(a) the names of the border guard responsible locally for border checks and of the other officers in each team;

(b) relaxation of checks on persons applied in accordance with Article 8;

(c) the issuing, at the border, of documents in place of passports and of visas;

(d) persons apprehended and complaints (criminal offences and administrative breaches);

(e) persons refused entry in accordance with Article 13 (grounds for refusal and nationalities);

(f) the security codes of entry and exit stamps, the identity of border guards to whom a given stamp is assigned at any given time or shift and the information relating to lost and stolen stamps;

(g) complaints from persons subject to checks;

(h) other particularly important police or judicial measures;

(i) particular occurrences.

ANNEX III

Model signs indicating lanes at border crossing points

PART A

(1)

(1) No logo is required for Norway and Iceland.

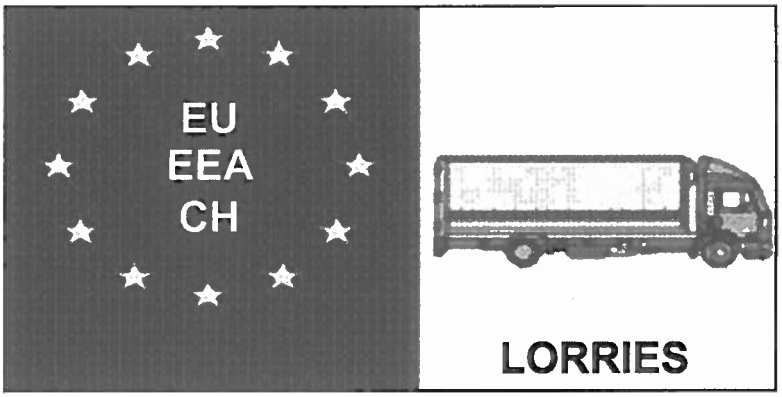
PART B

ALL

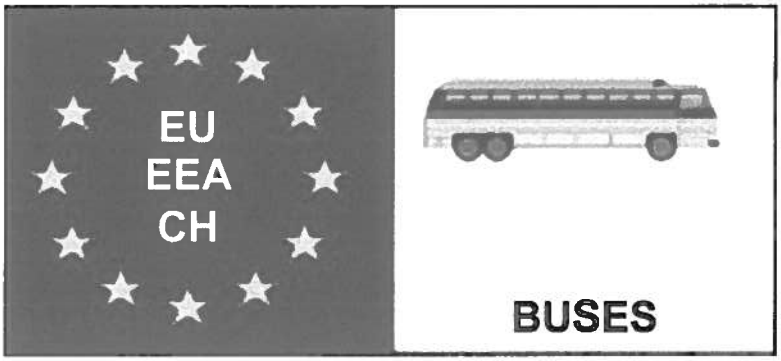
PASSPORTS

PART C

(1)

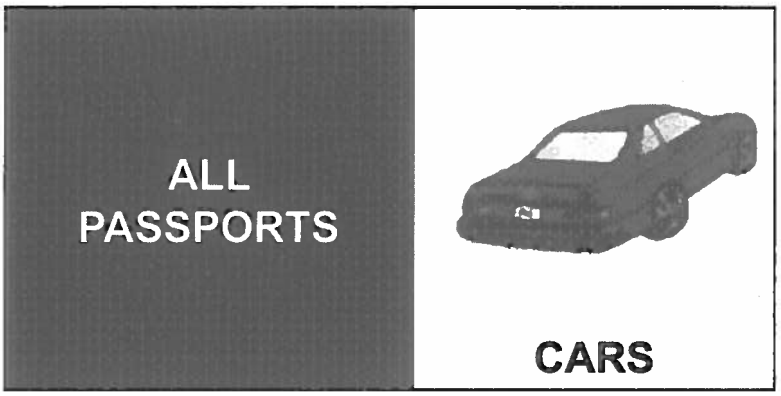


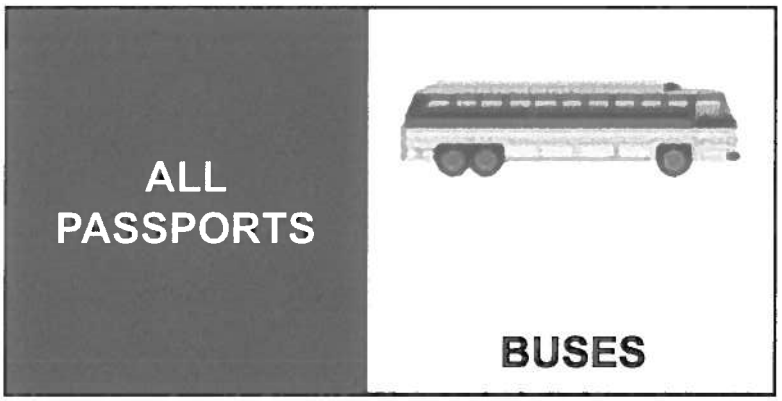
(1)

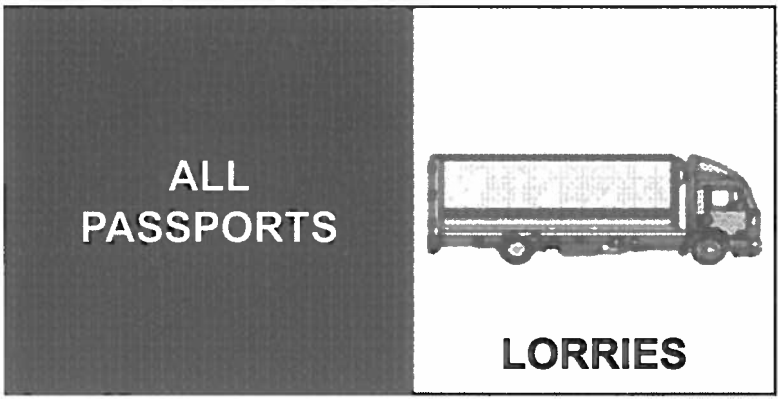


(1)

(1) No logo is required for Norway and Iceland.


ALL
PASSPORTS
CARS


ALL
PASSPORTS
BUSES


ALL
PASSPORTS
LORRIES

ANNEX IV

Affixing stamps

1. The travel documents of third-country nationals shall be systematically stamped on entry and exit, in accordance with Article 10. The specifications of those stamps are laid down in the Schengen Executive Committee Decision SCH/COM-EX (94) 16 rev and SCH/Gem-Handb (93) 15 (CONFIDENTIAL).

2. The security codes on the stamps shall be changed at regular intervals not exceeding one month.

3. On the entry and exit of third-country nationals subject to the visa obligation, the stamp will, if possible, be affixed so that it covers the edge of the visa without affecting the legibility of the indications on the visa or the security features of the visa sticker. If several stamps must be affixed (for example in the case of a multiple-entry visa, this shall be done on the page facing the one on which the visa is affixed.

   If that page cannot be used, the stamp shall be entered on the following page. The machine readable zone shall not be stamped.

4. Member States shall designate national contact points responsible for exchanging information on the security codes of the entry and exit stamps used at border crossing points and shall inform the other Member States, the General Secretariat of the Council and the Commission thereof. Those contact points shall have access without delay to information regarding common entry and exit stamps used at the external border of the Member State concerned, and in particular to information on the following:

   (a) the border crossing point to which a given stamp is assigned;

   (b) the identity of the border guard to whom a given stamp is assigned at any given time;

   (c) the security code of a given stamp at any given time.

   Any inquiries regarding common entry and exit stamps shall be made through the abovementioned national contact points.

   The national contact points shall also forward immediately to the other contact points, the General Secretariat of the Council and the Commission information regarding a change in the contact points as well as lost and stolen stamps.

ANNEX V

PART A

Procedures for refusing entry at the border

1. When refusing entry, the competent border guard shall:

   (a) fill in the standard form for refusing entry, as shown in Part B. The third-country national concerned shall sign the form and shall be given a copy of the signed form. Where the third-country national refuses to sign, the border guard shall indicate this refusal in the form under the section 'comments';

   (b) affix an entry stamp on the passport, cancelled by a cross in indelible black ink, and write opposite it on the right-hand side, also in indelible ink, the letter(s) corresponding to the reason(s) for refusing entry, the list of which is given on the abovementioned standard form for refusing entry;

   (c) cancel the visa by applying a stamp stating 'CANCELLED' in the cases referred to in paragraph 2. In such a case the optically variable feature of the visa sticker, the security feature 'latent image effect' as well as the term 'visa' shall be destroyed by crossing it out so as to prevent any later misuse. The border guard shall inform his/her central authorities of this decision forthwith;

   (d) record every refusal of entry in a register or on a list stating the identity and nationality of the third-country national concerned, the references of the document authorising the third-country national to cross the border and the reason for, and date of, refusal of entry;

2. The visa shall be cancelled in the following cases:

   (a) if the holder of the visa is the subject of an alert in the SIS for the purposes of being refused entry unless he or she holds a visa or re-entry visa issued by one of the Member States and wishes to enter for transit purposes in order to reach the territory of the Member State which issued the document;

   (b) if there are serious grounds to believe that the visa was obtained in a fraudulent way.

   However, the failure of the third-country national to produce, at the border, one or more of the supporting documents referred to in Article 5(2), shall not automatically lead to a decision to cancel the visa.

3. If a third-country national who has been refused entry is brought to the border by a carrier, the authority responsible locally shall:

   (a) order the carrier to take charge of the third-country national and transport him or her without delay to the third country from which he or she was brought, to the third country which issued the document authorising him or her to cross the border, or to any other third country where he or she is guaranteed admittance, or to find means of onward transportation in accordance with Article 26 of the Schengen Convention and Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 [1];

   (b) pending onward transportation, take appropriate measures, in compliance with national law and having regard to local circumstances, to prevent third-country nationals who have been refused entry from entering illegally.

4. If there are grounds both for refusing entry to a third-country national and arresting him or her, the border guard shall contact the authorities responsible to decide on the action to be taken in accordance with national law.

[1] OJ L 187, 10.7.2001, p. 45.

PART B

Standard form for refusal of entry at the border

Name of State
Logo of State (Name of Office)
_____

(1)

REFUSAL OF ENTRY AT THE BORDER

On _____ at (time) _____ at the border crossing point _____

We, the undersigned, _____ have before us:

Surname _____ First name _____

Date of birth _____ Place of birth _____ Sex _____

Nationality _____ Resident in _____

Type of identity document _____ number _____

Issued in _____ on _____

Visa number _____type _____ issued by _____

valid from _____ until _____

For a period of _____ days on the following grounds: _____

Coming from _____ by means of _____ (indicate means of transport used, e.g. flight number), he/she is hereby informed that he/she is refused entry into the country pursuant to *(indicate references to the national law in force)*, for the following reasons:

☐ (A) has no valid travel document(s)

☐ (B) has a false/counterfeit/forged travel document

☐ (C) has no valid visa or residence permit

☐ (D) has a false/counterfeit/forged visa or residence permit

☐ (E) has no appropriate documentation justifying the purpose and conditions of stay.

The following document(s) could not be provided: _____

☐ (F) has already stayed for three months during a six-month period on the territory of the Member States of the European Union

☐ (G) does not have sufficient means of subsistence in relation to the period and form of stay, or the means to return to the country of origin or transit

☐ (H) is a person for whom an alert has been issued for the purposes of refusing entry

☐ in the SIS

☐ in the national register

☐ (I) is considered to be a *threat to public policy, internal security, public health or the international relations* of one or more of the Member States of the European Union *(each State must indicate the references to national law relating to such cases of refusal of entry)*.

Comments

The person concerned may appeal against the decision to refuse entry as provided for in national law. The person concerned receives a copy of this document *(each State must indicate the references to the national law and procedure relating to the right of appeal)*.

Person concerned	Officer responsible for checks

(1) No logo is required for Norway and Iceland.

ANNEX VI

Specific rules for the various types of border and the various means of transport used for crossing the Member States' external borders

1. Land borders

1.1. *Checks on road traffic*

1.1.1. To ensure effective checks on persons, while ensuring the safety and smooth flow of road traffic, movements at border crossing points shall be regulated in an appropriate manner. Where necessary, Member States may conclude bilateral agreements to channel and block traffic. They shall inform the Commission thereof pursuant to Article 37.

1.1.2. At land borders, Member States may, where they deem appropriate and if circumstances allow, install or operate separate lanes at certain border crossing points, in accordance with Article 9.

Separate lanes may be dispensed with at any time by the Member States' competent authorities, in exceptional circumstances and where traffic and infrastructure conditions so require.

Member States may cooperate with neighbouring countries with a view to the installation of separate lanes at external border crossing points.

1.1.3. As a general rule, persons travelling in vehicles may remain inside them during checks. However, if circumstances so require, persons may be requested to alight from their vehicles. Thorough checks will be carried out, if local circumstances allow, in areas designated for that purpose. In the interests of staff safety, checks will be carried out, where possible, by two border guards.

1.2. *Checks on rail traffic*

1.2.1. Checks shall be carried out both on train passengers and on railway staff on trains crossing external borders, including those on goods trains or empty trains. Those checks shall be carried out in either one of the following two ways:

— on the platform, in the first station of arrival or departure on the territory of a Member State,

— on board the train, during transit.

Member States may conclude bilateral agreements on how to conduct those checks. They shall inform the Commission thereof pursuant to Article 37.

1.2.2. By way of derogation from point 1.2.1 and in order to facilitate rail traffic flows of high-speed passenger trains, the Member States on the itinerary of these trains from third countries may also decide, by common agreement with third countries concerned, to carry out entry checks on persons in trains from third countries in either one of the following ways:

— in the stations in a third country where persons board the train,

— in the stations where persons disembark within the territory of the Member States,

— on board the train during transit between the stations on the territory of the Member States, provided that the persons stay on board the train in the previous station/stations.

1.2.3. With respect to high-speed trains from third countries making several stops in the territory of the Member States, if the rail transport carrier is in a position to board passengers exclusively for the remaining part of the journey within the territory of the Member States, such passengers shall be subject to entry checks either on the train or at the station of destination except where checks have been carried out pursuant to points 1.2.1 or 1.2.2 first indent.

Persons who wish to take the train exclusively for the remaining part of the journey within the territory of the Member States shall receive clear notification prior to the train's departure that they will be subject to entry checks during the journey or at the station of destination.

1.2.4. When travelling in the opposite direction, the persons on board the train shall be subject to exit checks under similar arrangements.

1.2.5. The border guard may order the cavities of carriages to be inspected if necessary with the assistance of the train inspector, to ensure that persons or objects subject to border checks are not concealed in them.

1.2.6. Where there are reasons to believe that persons who have been reported or are suspected of having committed an offence, or third-country nationals intending to enter illegally, are hiding on a train, the border guard, if he or she cannot act in accordance with his national provisions, shall notify the Member States towards or within whose territory the train is moving.

2. Air borders

2.1. *Procedures for checks at international airports*

2.1.1. The competent authorities of the Member States shall ensure that the airport operator takes the requisite measures to physically separate the flows of passengers on internal flights from the flows of passengers on other flights. Appropriate infrastructures shall be set in place at all international airports to that end.

2.1.2. The place where border checks are carried out shall be determined in accordance with the following procedure:

(a) passengers on a flight from a third country who board an internal flight shall be subject to an entry check at the airport of arrival of the flight from a third country. Passengers on an internal flight who board a flight for a third country (transfer passengers) shall be subject to an exit check at the airport of departure of the latter flight;

(b) for flights from or to third countries with no transfer passengers and flights making more than one stop-over at the airports of the Member States where there is no change of aircraft:

(i) passengers on flights from or to third countries where there is no prior or subsequent transfer within the territory of the Member States shall be subject to an entry check at the airport of entry and an exit check at the airport of exit;

(ii) passengers on flights from or to third countries with more than one stop-over on the territory of the Member States where there is no change of aircraft (transit passengers), and provided that passengers cannot board the aircraft for the leg situated within the territory of the Member States, shall be subject to an entry check at the airport of arrival and an exit check at the airport of departure;

(iii) where an airline may, for flights from third countries with more than one stop-over within the territory of the Member States, board passengers only for the remaining leg within that territory, passengers shall be subject to an exit check at the airport of departure and an entry check at the airport of arrival.

Checks on passengers who, during those stop-overs, are already on board the aircraft and have not boarded in the territory of the Member States shall be carried out in accordance with point (b)(ii). The reverse procedure shall apply to that category of flights where the country of destination is a third country.

2.1.3. Border checks will normally not be carried out on the aircraft or at the gate, unless it is justified on the basis of an assessment of the risks related to internal security and illegal immigration. In order to ensure that, at the airports designated as border crossing points, persons are checked in accordance with the rules set out in Articles 6 to 13, Member States shall ensure that the airport authorities take the requisite measures to channel passenger traffic to facilities reserved for checks.

Member States shall ensure that the airport operator takes the necessary measures to prevent unauthorised persons entering and leaving the reserved areas, for example the transit area. Checks will normally not be carried out in the transit area, unless it is justified on the basis of an assessment of the risks related to internal security and illegal immigration: in particular checks in this area may be carried out on persons subject to an airport transit visa in order to check that they are in possession of such a visa.

2.1.4. Where, in cases of *force majeure* or imminent danger or on the instructions of the authorities, an aircraft on a flight from a third country has to land on a landing ground which is not a border crossing point, that aircraft may continue its flight only after authorisation from the border guards and from customs. The same shall apply where an aircraft on a flight from a third country lands without permission. In any event, Articles 6 to 13 shall apply to checks on persons on those aircraft.

2.2. *Procedures for checks in aerodromes*

2.2.1. It shall be ensured that persons are also checked, in accordance with Articles 6 to 13, in airports which do not hold the status of international airport under the relevant national law (aerodromes) but through which the routing of flights from or to third countries is authorised.

2.2.2. By way of derogation from point 2.1.1 it shall not be necessary to make appropriate arrangements in aerodromes to ensure that inflows of passengers from internal and other flights are physically separated, without prejudice to Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security [1]. In addition, when the volume of traffic is low, the border guards need not be present at all times, provided that there is a guarantee that the necessary personnel can be deployed in good time.

2.2.3. When the presence of the border guards is not assured at all times in the aerodrome, the manager of the aerodrome shall give adequate notice to the border guards about the arrival and the departure of aircrafts on flights from or to third countries.

2.3. *Checks on persons on private flights*

2.3.1. In the case of private flights from or to third countries the captain shall transmit to the border guards of the Member State of destination and, where appropriate, of the Member State of first entry, prior to take-off, a general declaration comprising inter alia a flight plan in accordance with Annex 2 to the Convention on International Civil Aviation and information concerning the passengers' identity.

2.3.2. Where private flights coming from a third country and bound for a Member State make stop-overs in the territory of other Member States, the competent authorities of the Member State of entry shall carry out border checks and affix an entry stamp to the general declaration referred to in point 2.3.1.

2.3.3. Where uncertainty exists whether a flight is exclusively coming from, or solely bound for, the territories of the Member States without stop-over on the territory of a third country, the competent authorities shall carry out checks on persons in airports and aerodromes in accordance with points 2.1 to 2.2.

2.3.4. The arrangements for the entry and exit of gliders, micro-light aircraft, helicopters, small-scale aircraft capable of flying short distances only and airships shall be laid down by national law and, where applicable, by bilateral agreements.

3. Sea borders

3.1. *General checking procedures on maritime traffic*

3.1.1. Checks on ships shall be carried out at the port of arrival or departure, on board ship or in an area set aside for the purpose, located in the immediate vicinity of the vessel. However, in accordance with the agreements reached on the matter, checks may also be carried out during crossings or, upon the ship's arrival or departure, in the territory of a third country.

The purpose of checks is to ensure that both crew and passengers fulfil the conditions laid down in Article 5, without prejudice to Article 19(1)(c).

3.1.2. The ship's captain or, failing that, the individual or corporation who represents the shipowner in all matters relating to the shipowner's duties in fitting out the vessel (shipowner's agent), shall draw up a list, in duplicate, of the crew and of any passengers. At the latest upon arriving in the port he or she shall give the list(s) to the border guards. If, for reasons of force majeure, the list or lists cannot be sent to the border guards, a copy will be sent to the appropriate border post or shipping authority, which shall forward it without delay to the border guards.

3.1.3. One copy of the two lists duly signed by the border guard shall be returned to the ship's captain, who shall produce it on request when in port.

[1] OJ L 355, 30.12.2002, p. 1. Regulation as amended by Regulation (EC) No 849/2004 (OJ L 158, 30.4.2004, p. 1).

3.1.4. The ship's captain, or failing that, the shipowner's agent shall report to the competent authority promptly any changes to the composition of the crew or the number of passengers.

In addition, the captain shall notify the competent authorities promptly, and if possible even before the ship enters port, of the presence on board of stowaways. Stowaways will, however, remain under the responsibility of the ship's captain.

3.1.5. The ship's captain shall notify the border guards of the ship's departure in due time and in accordance with the rules in force in the port concerned; if he or she is unable to notify them, he or she shall advise the appropriate shipping authority. The second copy of the previously completed and signed list(s) shall be returned to border guards or shipping authorities.

3.2. *Specific check procedures for certain types of shipping*

Cruise ships

3.2.1. The cruise ship's captain or, failing that, the shipowner's agent shall transmit to the respective border guards the itinerary and the programme of the cruise, at least 24 hours before leaving the port of departure and before the arrival at each port in the territory of the Member States.

3.2.2. If the itinerary of a cruise ship comprises exclusively ports situated in the territory of the Member States, by way of derogation from Articles 4 and 7, no border checks shall be carried out and the cruise ship may dock at ports which are not border crossing points.

Nevertheless, on the basis of an assessment of the risks related to internal security and illegal immigration, checks may be carried out on the crew and passengers of those ships.

3.2.3. If the itinerary of a cruise ship comprises both ports situated in the territory of the Member States and ports situated in third countries, by way of derogation from Article 7, border checks shall be carried out as follows:

(a) where the cruise ship comes from a port situated in a third country and calls for the first time at a port situated in the territory of a Member State, crew and passengers shall be subject to entry checks on the basis of the nominal lists of crew and passengers, as referred to in point 3.2.4.

Passengers going ashore shall be subject to entry checks in accordance with Article 7 unless an assessment of the risks related to internal security and illegal immigration shows that there is no need to carry out such checks;

(b) where the cruise ship comes from a port situated in a third country and calls again at a port situated in the territory of a Member State, crew and passengers shall be subject to entry checks on the basis of the nominal lists of crew and passengers as referred to in point 3.2.4 to the extent that those lists have been modified since the cruise ship called at the previous port situated in the territory of a Member State.

Passengers going ashore shall be subject to entry checks in accordance with Article 7 unless an assessment of the risks related to internal security and illegal immigration shows that there is no need to carry out such checks;

(c) where the cruise ship comes from a port situated in a Member State and calls at such a port, passengers going ashore shall be subject to entry checks in accordance with Article 7 if an assessment of the risks related to internal security and illegal immigration so requires;

(d) where a cruise ship departs from a port situated in a Member State to a port in a third country, crew and passengers shall be subject to exit checks on the basis of the nominal lists of crew and passengers.

If an assessment of the risks related to internal security and illegal immigration so requires, passengers going on board shall be subject to exit checks in accordance with Article 7;

(e) where a cruise ship departs from a port situated in a Member State to such a port, no exit checks shall be carried out.

Nevertheless, on the basis of an assessment of the risks related to internal security and illegal immigration, checks may be carried out on the crew and passengers of those ships.

3.2.4. The nominal lists of crew and passengers shall include:

(a) name and surname;

(b) date of birth;

(c) nationality;

(d) number and type of travel document and, where applicable, visa number.

The cruise ship's captain or, failing that, the shipowner's agent shall transmit to the respective border guards the nominal lists at least 24 hours before the arrival at each port in the territory of the Member States or, where the journey to this port lasts less than 24 hours, immediately after the boarding is completed in the previous port.

The nominal list shall be stamped at the first port of entry into the territory of the Member States and in all cases thereafter if the list is modified. The nominal list shall be taken into account in the assessment of the risks as referred to in point 3.2.3.

Pleasure boating

3.2.5. By way of derogation from Articles 4 and 7, persons on board a pleasure boat coming from or departing to a port situated in a Member State shall not be subject to border checks and may enter a port which is not a border crossing point.

However, according to the assessment of the risks of illegal immigration, and in particular where the coastline of a third country is located in the immediate vicinity of the territory of the Member State concerned, checks on those persons and/or a physical search of the pleasure boat shall be carried out.

3.2.6. By way of derogation from Article 4, a pleasure boat coming from a third country may, exceptionally, enter a port which is not a border crossing point. In that case, the persons on board shall notify the port authorities in order to be authorised to enter that port. The port authorities shall contact the authorities in the nearest port designated as a border crossing point in order to report the vessel's arrival. The declaration regarding passengers shall be made by lodging the list of persons on board with the port authorities. That list shall be made available to the border guards, at the latest upon arrival.

Likewise, if for reasons of *force majeure* the pleasure boat coming from a third country has to dock in a port other than a border crossing point, the port authorities shall contact the authorities in the nearest port designated as a border crossing point in order to report the vessel's presence.

3.2.7. During those checks, a document containing all the technical characteristics of the vessel and the names of the persons on board shall be handed in. A copy of that document shall be given to the authorities in the ports of entry and departure. As long as the vessel remains in the territorial waters of one of the Member States, a copy of that document shall be included amongst the ship's papers.

Coastal fishing

3.2.8. By way of derogation from Articles 4 and 7, the crews of coastal fisheries vessels which return every day or within 36 hours to the port of registration or to any other port situated in the territory of the Member States without docking in a port situated in the territory of a third country shall not be systematically checked. Nevertheless, the assessment of the risks of illegal immigration, in particular where the coastline of a third country is located in the immediate vicinity of the territory of the Member State concerned, shall be taken into account in order to determine the frequency of the checks to be carried out. According to those risks, checks on persons and/or a physical search of the vessel shall be carried out.

3.2.9. The crews of coastal fisheries vessels not registered in a port situated in the territory of a Member State shall be checked in accordance with the provisions relating to seamen.

The ship's captain shall notify the competent authorities of any alteration to the crew list and of the presence of any passengers.

Ferry connections

3.2.10. Checks shall be carried out on persons on board ferry connections with ports situated in third countries. The following rules shall apply:

(a) where possible, Member States shall provide separate lanes, in accordance with Article 9;

(b) checks on foot passengers shall be carried out individually;

(c) checks on vehicle occupants shall be carried out while they are at the vehicle;

(d) ferry passengers travelling by coach shall be considered as foot passengers. Those passengers shall alight from the coach for the checks;

(e) checks on drivers of heavy goods vehicles and any accompanying persons shall be conducted while the occupants are at the vehicle. Those checks will in principle be organised separately from checks on the other passengers;

(f) to ensure that checks are carried out quickly, there shall be an adequate number of gates;

(g) so as to detect illegal immigrants in particular, random searches shall be made on the means of transport used by the passengers, and where applicable on the loads and other goods stowed in the means of transport;

(h) ferry crew members shall be dealt with in the same way as commercial ship crew members.

4. **Inland waterways shipping**

4.1. 'Inland waterways shipping involving the crossing of an external border' covers the use, for business or pleasure purposes, of all types of boat and floating vessels on rivers, canals and lakes.

4.2. As regards boats used for business purposes, the captain and the persons employed on board who appear on the crew list and members of the families of those persons who live on board shall be regarded as crew members or equivalent.

4.3. The relevant provisions of points 3.1 to 3.2 shall apply *mutatis mutandis* to checks on inland waterways shipping.

ANNEX VII

Special rules for certain categories of persons

1. Heads of State

By way of derogation from Article 5 and Articles 7 to 13, Heads of State and the members of their delegation, whose arrival and departure have been officially announced through diplomatic channels to the border guards, may not be subject to border checks.

2. Pilots of aircraft and other crew members

2.1. By way of derogation from Article 5 the holders of a pilot's licence or a crew member certificate as provided for in Annex 9 to the Civil Aviation Convention of 7 December 1944 may, in the course of their duties and on the basis of those documents:

(a) embark and disembark in the stop-over airport or the airport of arrival situated in the territory of a Member State;

(b) enter the territory of the municipality of the stop-over airport or the airport of arrival situated in the territory of a Member State;

(c) go, by any means of transport, to an airport situated in the territory of a Member State in order to embark on an aircraft departing from that same airport.

In all other cases, the requirements provided for by Article 5(1) shall be fulfilled.

2.2. Articles 6 to 13 shall apply to checks on aircraft crew members. Wherever possible, priority will be given to checks on aircraft crews. Specifically, they will be checked either before passengers or at special locations set aside for the purpose. By way of derogation from Article 7, crews known to staff responsible for border controls in the performance of their duties may be subject to random checks only.

3. Seamen

3.1. By way of derogation from Articles 4 and 7, Member States may authorise seamen holding a seafarer's identity document issued in accordance with the Geneva Convention of 19 June 2003 (No 185), the London Convention of 9 April 1965 and the relevant national law, to enter into the territory of the Member States by going ashore to stay in the area of the port where their ships call or in the adjacent municipalities without presenting themselves at a border crossing point, on condition that they appear on the crew list, which has previously been submitted for checking by the competent authorities, of the ship to which they belong.

However, according to the assessment of the risks of internal security and illegal immigration, seamen shall be subject to a check in accordance with Article 7 by the border guards before they go ashore.

If a seaman constitutes a threat to public policy, internal security or public health, he may be refused permission to go ashore.

3.2. Seamen who intend to stay outside the municipalities situated in the vicinity of ports shall comply with the conditions for entry to the territory of the Member States, as laid down in Article 5(1).

4. Holders of diplomatic, official or service passports and members of international organisations

4.1. In view of the special privileges or immunities they enjoy, the holders of diplomatic, official or service passports issued by third countries or their Governments recognised by the Member States, as well as the holders of documents issued by the international organisations listed in point 4.4 who are travelling in the course of their duties, may be given priority over other travellers at border crossing points even though they remain, where applicable, subject to the requirement for a visa.

By way of derogation from Article 5(1)(c), persons holding those documents shall not be required to prove that they have sufficient means of subsistence.

4.2. If a person presenting himself or herself at the external border invokes privileges, immunities and exemptions, the border guard may require him or her to provide evidence of his or her status by producing the appropriate documents, in particular certificates issued by the accrediting State or a diplomatic passport or other means. If he or she has doubts, the border guard may, in case of urgent need, apply direct to the Ministry of Foreign Affairs.

4.3. Accredited members of diplomatic missions and of consular representations and their families may enter the territory of the Member States on presentation of the card referred to in Article 19(2) and of the document authorising them to cross the border. Moreover, by way of derogation from Article 13 border guards may not refuse the holders of diplomatic, official or service passports entry to the territory of the Member States without first consulting the appropriate national authorities. This shall also apply where an alert has been entered in the SIS for such persons.

4.4. The documents issued by the international organisations for the purposes specified in point 4.1 are in particular the following:

— United Nations *laissez-passer* issued to staff of the United Nations and subordinate agencies under the Convention on Privileges and Immunities of Specialised Agencies adopted by the United Nations General Assembly on 21 November 1947 in New York,

— European Community (EC) *laissez-passer*,

— European Atomic Energy Community (Euratom) *laissez-passer*,

— legitimacy certificate issued by the Secretary-General of the Council of Europe,

— documents issued pursuant to paragraph 2 of Article III of the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Force (military ID cards accompanied by a travel order, travel warrant, or an individual or collective movement order) as well as documents issued in the framework of the Partnership for Peace.

5. Cross-border workers

5.1. The procedures for checking cross-border workers are governed by the general rules on border control, in particular Articles 7 and 13.

5.2. By way of derogation from Article 7, cross-border workers who are well known to the border guards owing to their frequent crossing of the border at the same border crossing point and who have not been revealed by an initial check to be the subject of an alert in the SIS or in a national data file shall be subject only to random checks to ensure that they hold a valid document authorising them to cross the border and fulfil the necessary entry conditions. Thorough checks shall be carried out on those persons from time to time, without warning and at irregular intervals.

5.3. The provisions of point 5.2 may be extended to other categories of regular cross-border commuters.

6. Minors

6.1. Border guards shall pay particular attention to minors, whether travelling accompanied or unaccompanied. Minors crossing an external border shall be subject to the same checks on entry and exit as adults, as provided for in this Regulation.

6.2. In the case of accompanied minors, the border guard shall check that the persons accompanying minors have parental care over them, especially where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the custody of the person(s) legally exercising parental care over them. In the latter case, the border guard shall carry out a further investigation in order to detect any inconsistencies or contradictions in the information given.

6.3. In the case of minors travelling unaccompanied, border guards shall ensure, by means of thorough checks on travel documents and supporting documents, that the minors do not leave the territory against the wishes of the person(s) having parental care over them.

ANNEX VIII

Name of State

Logo of State ..... (Name of Office)

_____

_____ (1)

APPROVAL OF THE EVIDENCE REGARDING THE RESPECT OF THE CONDITION OF THE DURATION OF A SHORT STAY IN CASES WHERE THE TRAVEL DOCUMENT DOES NOT BEAR AN ENTRY STAMP

On _____ at (time) _____ at (place) _____

We, the undersigning authority, _____ have before us:

Surname _____ First name _____

Date of birth _____ Place of birth _____ Sex: _____

Nationality _____ Resident in _____

Travel document _____ number _____

Issued in _____ on _____

Visa number _____ (if applicable) issued by _____

for a period of _____ days on the following grounds: _____

Having regard to the evidence relating to the duration of his/her stay on the territory of the Member States that he/she) has provided, he/she) is considered to have entered the territory of the Member State _____ on _____ at _____ at the border crossing point _____

Contact details of the undersigning authority:

Tel _____

Fax:_____

e-mail:_____

The person concerned will receive a copy of this document.

Person concerned	Officer responsible + stamp

(1) No logo is required for Norway and Iceland.