

# Freedom, Security, Privacy – European Home Affairs in an open world



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## Report

of the Informal High Level Advisory Group on the  
Future of European Home Affairs Policy  
(„The Future Group“)

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## **Executive Summary**

### **The Future Group**

1. At the informal meeting of Ministers of Interior and Immigration in Dresden in January 2007, the German Minister of the Interior and the Vice President of the European Commission responsible for Justice, Freedom and Security proposed the creation of an informal Group at ministerial level with the objective to consider the future of the European area of justice, freedom and security. The findings and recommendations of the Future Group are meant to be an important contribution and a source of inspiration for the European Commission's proposal for the next multi-annual programme in the field of Justice and Home Affairs.
2. The Future Group was co-chaired by the Vice President of the European Commission and the Minister of Interior of the acting Presidency. It brought together, ad personam, the Ministers of Interior of the two current trios of Presidencies (Germany, Portugal, Slovenia; France, Czech Republic, Sweden) and a representative of the future Presidency trio, i.e. Spain, Belgium and Hungary. Further participants were a common law observer (United Kingdom), the President of the LIBE Committee of the European Parliament and a representative of the Secretariat General of the Council.
3. The Group reported regularly on the progress of its discussions to the ministers responsible for Home Affairs at Council meetings and an interim report on the Group's work was presented to all Member States by the Slovenian Presidency during the Informal Justice and Home Affairs Council in January 2008. The work of the Future Group has been summed up in this final report putting together the essential ideas and reflections of the Group. This report is aimed at both the Member States, Parliament and the general public in order to launch a debate on its content and the future of Home Affairs in the European Union.

### **What are the horizontal challenges for 2010-2014?**

4. Throughout its mandate the Future Group strove to identify the major structural changes the European Union has undergone in recent years. When considering what the environment of the European Union will be in the period 2010-2014, three horizontal challenges appeared essential to safeguard and complete the area of justice, freedom and security in the light of continuously changing framework conditions:
  - preserving the "European model" in the area of European Home Affairs by balancing mobility, security and privacy;
  - coping with the growing interdependence between internal and external security;
  - ensuring the best possible flow of data within European-wide information networks.

## **Preserving Internal Security and External Stability**

### *Police Cooperation*

5. The Group recommends deepening law enforcement cooperation within the Union while ensuring that the different aspects of this cooperation progress consistently and while preserving active cooperation in the field. Police forces in the Union belong to Member States' field of competence. In the years to come, these law enforcement services should, however, get closer to each other. There is a need for improving the environment of police cooperation, especially by reinforcing Europol, exchanging knowledge and integrating police file management and security technologies.
6. To this effect, the Group proposes that the European Union should work towards a simplification of the regulations applied when a criminal investigation needs to be carried out on another Member State's territory. This could, for example, mean that certain non coercive acts carried out by police officers on another Member State's territory could be simplified or that a system of written requests for information could be organised.
7. Europol is to function as close partner and focal point for national police forces at the European level. Improving data transfers from Member States to Europol is necessary if it is to become a genuine information platform for Member States. The requirement of the so-called "Swedish" framework decision of 18 December 2006, aiming at better information sharing, could be fulfilled by means of creating automatic data transfer instruments. Furthermore, Europol should be, within its legal framework, increasingly used and expanded into a competence centre for technical and coordinative support.
8. The Group suggests that the European Union should establish a model of Police and Customs Cooperation Centre (PCCC) applicable to all Member States. The structure and missions of PCCCs could be re-evaluated, in order to make them real police-customs centres of crisis management capable of handling events on an international scale. Especially in the border zones, PCCCs should become a model of future police cooperation.
9. The technical management of SIS-, VIS- and Eurodac-type European files should be grouped within a single specific structure for greater efficiency, on the basis of a preliminary evaluation.
10. The research and development activity on European-level security equipment should similarly be considered a priority. In this context intensified use should be made of means available in the 7th Framework Programme for research and technological development. The entire area of security technology has undergone major developments. Efforts must be made to standardise new materials in order to obtain better interoperability.

11. Meanwhile, a common culture of all European Union police forces needs to be further developed with systematic common European training and a greater use of the European Police College for this purpose should be encouraged.

### *Fight against terrorism*

12. The Group recommends that the work initiated within the scope of the 2005 European Union Strategy be carried on and further developed so as to fight terrorism based on a comprehensive global approach. The European Union must ensure that Member States' competences and resources are better tapped, since these are responsible for the operational fight against terrorism.
13. The Group deems it advisable that the different actors of the fight against terrorism be better coordinated within the Union and that, therefore, a concept should be developed on the future institutional architecture in this area. The Group suggests an improvement of the information flow between Member States' law enforcement authorities, Eurojust and Europol. In this context, the role of the Joint Situation Centre (SitCen) should be analysed with particular consideration.
14. Terrorist risks could be better taken into account by European policies: weapons control, the fight against explosives, transport protection, control of financial transactions. Progress is necessary in the preparation of European-level crisis management.
15. Regarding external relations, better political, technical and operational cooperation should be reached with third countries, especially with countries most affected by the menace of terror as well as the Union's major strategic partners – the United States and Russia.
16. The Group suggests promoting exchanges of best practices between the Union's Member States and possibly with third states concerning the legal tools for expulsion and surveillance as well as on appropriate measures to fight home-grown terrorism.
17. From a political standpoint, the Group recommends focusing on mid- and long-term prevention, especially as regards recruitment and radicalisation, by reinforcing the cooperation already started in this field at European Union level, and by continuing the fight against the use of Internet for terrorist purposes. As terrorism is often accompanied by political propaganda, the Union must develop a positive counter-system based on its values: the rule of law, fundamental rights, peace and liberty. The European Union has to improve communication with civil society, using every communication mode, including Internet.
18. A responsible and up-to-date European counter terrorism policy should take into account the possible threat of terrorist attacks with nuclear, biological or chemical weapons. The group suggests creating a platform or mechanism for

sharing information between the Member States' special police units responsible for dealing with current Chemical Biological Radio Nuclear situations.

### *Third Country Missions*

19. The Group observes an increase in the number of European Union peace-keeping missions throughout the world. These interventions increasingly require comprehensive support in terms of military, police, civil protection, development aid and rule of law devices. The Group recommends making the most of past experience gained in this area.
20. To this end, the Group calls for greater coordination of police, diplomatic and military action in order to improve the preparation and assessment of these missions, with closer cooperation between different Council structures. Pooling together European Union's financial resources for third country missions should also be considered. Member States participating could be asked to provide Integrated Police Units for certain missions. Future reflections should also include the integration of the "European Gendarmerie Force" and civilian police units from Member States into the legal framework of the European Union.
21. The Group also suggests improving the coherence of missions by integrating their different components right from the start, when the operation is in the planning stages. The different civil, military and judicial entities taking part in the same mission could be grouped together in Mission situation centres.
22. Finally, greater care should be taken to disseminate the information obtained by these missions in the European Union. Europol and the Member States should receive this information. Conversely, the missions should be able to access appropriate information. The Group deems it necessary to seek an effective information-sharing method.

## **Managing Migration, Asylum, External Borders and Integration**

### *Migration policy*

23. There seems to be a consensus in the European Union about the fact that migration is an inherent phenomenon in our increasingly globalised societies and economies. Demographic trends will create even more demand for labour migration. The Future Group is convinced that the response needs to be at a European level, and recommends the implementation of a forward-looking and comprehensive common immigration policy.
24. With regard to cooperation with partner countries and implementation of the Global Approach to Migration, an integrated approach should be applied. Dialogue, cooperation and partnership with countries of origin and transit should be deepened and broadened in terms of both actions and resources in

a fully balanced manner. The notions of a mobility partnership, circular migration and co-development should be further developed. Member States, third countries and migrants will be able to benefit.

25. The Group thinks that the principles of responsibility, solidarity and mutual trust are prerequisites for the definition of a common policy in this area. The need for implementation of these principles will have to be fully integrated into the next multi-annual programme.
26. The Group recommends designing a common immigration policy as a function of long-term demographic and economic evolutions, in line with Member States' competencies. Prerequisite for such legal migration is a demand for specific qualifications on the labour markets of the Member States on the one hand and a supply of workers from third countries possessing such qualifications on the other. Based on these principles, the Group suggests that Member States should fully exploit all possibilities of intra-European economic migration.
27. The Group agrees that general regularisations should be avoided. In the future, regularisations in exceptional circumstances and with individual case-by-case approach could be acceptable.
28. On the subject of illegal immigration, the Group encourages an effective European return policy, which would allow for an organised coordination of Member States' actions in this field. The Group suggests avoiding general and unconditional regularisations in one Member State.
29. Finally, the ways and means for successful integration need to be deepened. They are an integral part of legal migration policy. Respecting the different national competencies, a set of common minimum standards and requirements of both the immigrant and the Member State should be further implemented as a complement to national integration policies.

### *Asylum Policy*

30. The Group notes that wide divergences in practices still exist between Member States in the granting of refugee status and subsidiary protection, despite the adoption of common minimum standards.
31. The Group recommends pursuing the implementation of the Common European Asylum System (CEAS), based on the Geneva Convention, as envisaged by the Hague-Programme. Increasing practical cooperation between the Member States is a very important step. The role of the European Support Office in coordinating such practical cooperation is essential. It must help reduce the differences in the treatment of asylum seekers by different Member States and improve the support to States faced with exceptional pressure.

32. The Group deems it necessary that the Union has to continue to provide secure borders and prevent illegal immigration at the same time as ensuring that those with a genuine right to asylum are able to claim it.
33. Support for refugees in the regions of the world most concerned must become a strong European Union policy. There should be an increased emphasis on the external dimension of the asylum policy. The concept of Regional Protection Programmes should, on the basis of an evaluation, be developed and if necessary redesigned. A common resettlement instrument should be agreed.

#### *Border Management and Cooperation with Third Countries*

34. The European Union border management policy is coming to the end of its first phase, which aimed mainly at the abolition of internal borders controls. Member States admit that the cooperation of law enforcement teams on external borders is necessary to reach an effective and mutually supportive policy.
35. The Group encourages the European Union to outline an integrated border management strategy capable of coping with the increasing flows of migrants and the impressive mobility of today's world, while ensuring mutual support among Member States.
36. Fully aware that border control itself is only one element of a global policy of security management, the Group recommends integrated control of European Union borders, up and down stream. This should include one stop approach integrating all checks and controls carried out for different purposes. Possibilities offered by new technologies, hand in hand with well-trained border guards, must play a central role. As a complement, adequate data protection tools are necessary.
37. The Group thinks that Frontex must play a central role in maximising threat analysis; cooperation between Member States (Frontex should especially be in a position to manage joint operations); training of Member States' border guards and reinforcing links with third countries in this field. The resources belonging to Frontex – personnel and equipment – must be reinforced. The agency should also be given the responsibility to regularly evaluate and inspect national border forces.
38. The Group strongly recommends developing further a strategy vis-à-vis third countries particularly in the fight against illegal migration, with a focus on border management problems, and support measures such as development of mobility partnerships and circular migration. This strategy should be mutually beneficial for all partners. The Group recognises that a comprehensive European strategy on visas gives political leverage when dealing with third countries.

## **Developing Civil Protection**

39. Civil protection is a genuine responsibility of Member States. Yet, the Group supports the development of a European policy in this area in order to improve overall consistency, better efficiency and even greater solidarity between Member States.
40. The key to the future is striking the right balance between the principle of Member States' responsibility and that of solidarity at the European level. This is all the more important since the Union today faces multiple risks – natural but also technological disasters especially in the context of terrorist Chemical Biological Radio Nuclear threats.
41. The importance of prevention has been stressed in the Group, which considers this aspect of civil protection as something that need to be developed in order to create a safer environment.
42. The Group proposes improving information management, developing common training and exercises in this area and setting up a network between schools. Better interoperability of operational techniques and systems must be sought. Similarly, the capacity of the Monitoring and Information Centre should be strengthened so as to turn it into a central coordination point and to develop its monitoring functions.
43. A European mutual assistance would develop reaction capabilities based on the Member States' resources, in order to help countries deal more effectively with major events in Europe and in the world. This system would operate on a voluntary basis. The European Union would thus be in a better position to tackle today's civil protection challenges.

## **Using new technologies and information networks**

44. In a space where people and goods move freely, information exchange is a key component of European security. The Hague-Programme established the Principle of Availability. The Group estimates that European information networks should now be developed from a legal as well as from a technical standpoint, with a global and coherent approach taking fully into account operational needs. It therefore recommends implementing a European Union Information Management Strategy (EU IMS) promoting a coherent approach to the development of information technology and exchange of information.
45. The Group proposes putting forward a "top ten" of data categories where exchange should be developed between Member States within the scope of the Union's global information exchange strategy.
46. Efforts should be made to launch an "European Security Tool-Pool" Initiative. Such a "tool pool" would allow Member States and European Union institutions to make available tools of proven or potential use in the security

field for appraisal and or testing by authorities of other Member States and, when useful, support its mutual deployment.

47. A working group of the Council must be in charge of drafting this global strategy. This perspective, however, requires decision-making on data protection and on the authority in charge of compliance and control. Reflection should also be given to the common stance to adopt vis-à-vis third countries.

### **Implementing the External Dimension of Home Affairs Policy**

48. The Group is aware that external and internal security issues are intrinsically linked and that the external dimension of Home Affairs policy is vital if common action is to be taken in the area of security and migration along the lines of the 2005 European Union Strategy for the External Dimension of the Area of Justice, Freedom and Security. An intensified cooperation between ministers of Home Affairs, Foreign Relations, Development and Defence shall ensure an integrated approach. European policies in this area must promote the development of the rule of law and fundamental rights in third countries. They must also help prevent threats to the European area.
49. A differentiated approach to individual third countries and regions is warranted. Measures have to follow a geographical prioritisation and political differentiation.
50. The Group advocates tightening links with the Union's neighbouring States and with its strategic partners – especially the United States and Russia. By 2014 the European Union should make up its mind with regard to the political objective to realise a Euro-Atlantic area of cooperation in the field of freedom, security and justice with the United States. Furthermore, it deems that Home Affairs issues should be linked with the Union's external relations in the political as well as technical dimensions; this is a major challenge for the internal security of the European area. The Justice and Home Affairs sector itself will have to overhaul its working methods in this respect.

### **Which strategy can best take up the 2010-2014 challenges?**

51. In the first years of Justice and Home Affairs policies, the European Union strove to set up forms of cooperation allowing Member States to face common issues together and organised information availability between Member States. The next step must now be taken. Member States preserve essential competences in the area of internal affairs – especially law enforcement activities. The Group considers it important for Member States to continue to look for practical opportunities to co-operate together, even in areas which clearly remain the national responsibility of those states.
52. The underlying thread to a coordinated management of European migration and security issues could be the *convergence principle*. The aim of this idea is to bring Member States closer not only by means of standardisation when necessary but also by operational means. Common training programmes,

exchange networks, solidarity mechanisms, the pooling of some equipment, simpler cooperation procedures, and of course, information exchanges are essential ways of reaching true and genuine operational cooperation between the Union's Member States.

53. The *convergence principle* would apply to all areas where closer relations between Member States are possible: agents, institutions, practices, equipment and legal frameworks. These closer relations would be based on the Union's Acquis and would make full use of the European Union instruments. Added value would be systematically sought in the definition and implementation of the corresponding projects. Seeking added value and developing the convergence principle lead to the same goal. The closer Member States cooperate with each other, the clearer the shared values as well as the national reservations will be.
54. To achieve these goals, the Group deems it desirable to promote good understanding of every actor's current competences in the European Union. It therefore suggests that a structured and consolidated compilation of all law instruments in force in the area of European Home Affairs should be made available to the public on the Internet. Better coordination should be sought regarding the transposition of directives and framework decisions. Both European legislation in force and certain agreements between Member States could be codified in a user- and reader-friendly way. These Codices could provide an advanced and flexible system of legislation in the European Home Affairs and could become a key element for making the Acquis more transparent, easier to understand and to apply. Political action needs to be "disentangled", i.e. citizens need to be able to understand on which level a decision was taken and why.
55. The European Pact on migration and asylum tabled by the French Presidency is an example of the methods that could be used in the future: a collective commitment to be translated into concrete objectives and actions at European Union and national level; an approach targeting practical results that are easy to understand by our citizens. In this manner, they will better make the actions of the European Union their own.

## Chapter I: Introduction

### 1.) The Future Group: A different way of policy-making in the area of European Home Affairs

1. Home Affairs policy has been dealt with at European level for years, and it now takes place increasingly in an international and even global environment. Policy-makers are confronted with continually shifting political surroundings requiring dynamic decision-making. The general framework requiring political action in this climate is made up of: globalisation; the right balance between mobility, security and privacy; the increasing blurriness of internal and external security; the worldwide and borderless use of information and communication technologies and, linked thereto, an increasing need to protect sensitive data in an exemplary manner.
2. In the area of Justice and Home Affairs of the European Union, there has been positive experience with formulating and promoting major political objectives in multi-annual programmes adopted by the Heads of State and Government. Based on those roadmaps, the European Commission proposes concrete implementation measures in preparation for transforming political will into legal action.
3. In 1999 the European Council adopted the first multi-annual programme for the field of Justice and Home Affairs in Tampere, enabling the European Union to make major progress e.g. in the fields of visas, asylum, border controls and illegal migration. The Hague Programme, that goes back to November 2004 and is scheduled to continue to the end of 2009, identified important priorities in European Justice and Home Affairs.
4. The timetable for a Programme following the Hague Programme is tight. In June 2009, a new European Parliament will be elected. In autumn 2009, the present European Commission will be replaced by a new College. In parallel, the Hague Programme will be coming to an end. Against this background, the proposal for a programme to follow the Hague Programme will be presented by the Commission well in advance of the elections to the European Parliament. This "post-Hague Programme" would have to be adopted by the Council in 2009. For that reason reflections on the future of European Home Affairs have already started within the Future Group.
5. In the comparatively new area of Home Affairs in the context of the European Union, which touches the core of the national constitutional orders, Member States have a special interest in maintaining a dialogue with each other as well as with the European Commission. Yet in the Justice and Home Affairs Council at times, the length of decision-making procedures on the one hand and the lack of time for substantial discussions on the other appear unsatisfactory.
6. The last enlargements of the European Union in 2004 and 2007, nearly doubling the number of Member States from 15 to 27, have helped to overcome the division of Europe. In the area of Home Affairs, the enlargement

and the ensuing extension of the Schengen area at the end of 2007 have improved freedom and security for millions of European citizens. However, they have also generated a search for new ways to facilitate substantial debate at political level. One solution is to launch preliminary discussions in informal, smaller *fora*, mandated by the Council. The degree of their acceptance will depend on transparency, a representative structure of participants, and the possibility for non-members to contribute.

7. Against this background, it was considered useful to unite the European Commission Vice-President responsible for Home Affairs and the respective Ministers in those Member States holding, in the coming months and years, the team presidencies in the Council, thereby creating a “centre of gravitation” launching a discussion about the future of Home Affairs well in advance.
8. At the informal Justice and Home Affairs meeting in Dresden on 14 to 16 January 2007 and in the margins of the JHA Council on 14 February 2007, Ministers principally endorsed a proposal of the German Minister of the Interior Dr Wolfgang Schäuble, then President of the Council, and then Commission Vice-President Franco Frattini to establish a High Level Advisory Group consisting of the European Commission; the acting, outgoing and incoming Presidencies of Germany, Portugal, Slovenia, France, the Czech Republic and Sweden; and one representative of the following presidencies of Spain, Belgium and Hungary. Further participants were a common law observer, a representative of the European Parliament and a representative of the General Secretariat of the Council. The Group was co-chaired on a rotating basis by the Minister of the Interior of the acting Presidency and the Commission Vice-President responsible for Home Affairs.
9. Accordingly, the European Council concluded in June 2007: “On the basis of the Tampere and Hague Programmes significant progress has been made in developing the Union as an area of freedom, security and justice. The European Council stresses the need to continue the implementation of those programmes and to work on the succession to them in order to further strengthen Europe’s internal security as well as the fundamental freedoms and rights of citizens.”
10. The purpose of the Group was to draft a political report with recommendations that will serve as a source of ideas for the European Commission and the Member States in preparing a new programme for the design of European Union policies in the area of home affairs after 2010. It especially examined areas where more cooperation is needed at European level, because there is an added value compared to national action, and areas where, for the period of 2009-2014, European action is considered less urgent for the time being. The Treaty of Lisbon would provide significant changes in the area of home affairs which have not been dealt with by the Group in order not to anticipate the outcome of the ratification process.
11. The Group met informally and although its opinions are not binding in any way on the European Commission with regard to the preparation of the proposal for a post-Hague Programme and do not influence the Council's decision-

making regarding the latter's treatment and adoption, they could serve as a source of reflection and ideas.

12. Membership of the Group was *ad personam*. The Group worked in accordance with the Chatham House rule. To nevertheless ensure transparency and offer the possibility of contributing, all documents and minutes were circulated to the other members of the Justice and Home Affairs Council responsible for Home Affairs. At informal dinners of Ministers in the margins of Council meetings, Ministers were regularly informed about the state of the work. Under the Slovenian Presidency at the beginning of 2008, the Justice and Home Affairs Council was presented with an Interim Report of the Group.
13. The Group prepared the present Final Report offering the European Commission and the Council an important contribution to the preparations and discussions on the "post-Hague Programme" to be proposed by the European Commission.

## **2.) Overarching structural challenges**

### **Efficient Cooperation**

14. The European Union has to be ambitious. But as we need a real vision for the future on the one hand, on the other hand we need to focus on efficient and practical cooperation, which allows for quick and targeted results in the interests of citizens.
15. Political efforts must aim at finding the right balance between vision and pragmatism: new entities or harmonised rules at European level are not objectives in themselves.

### **General Principles**

16. Europe's strength and efficiency rely to a great extent on a well-functioning division of tasks between the European level on the one hand and the national and regional levels on the other.
17. The key areas of Home Affairs, e.g. the provision of security and the safeguard of liberty and privacy by the State, affect the core of national sovereignty as well as lives of citizens. At the same time, European action is needed to cope with the challenges to freedom and security of our citizens that cannot be solved by national action alone. European citizens expect policy-makers to guarantee security as one basis for freedom while at the same time offering strong standards of privacy. In accordance with these expectations, the term "European Model", commonly used in the areas of economic and social affairs as a synonym for a unique societal approach, can also be used in Home Affairs. It has become an essential part of the quality of life in the European Union. Citizens are entitled to responsible and efficient national as well as European policy-making that respects and preserves this "European Model".

18. Due to this sensitiveness it is indispensable that decision-making is transparent and comprehensible. Citizens will accept and welcome a decision taken by “Brussels” if the responsibilities are clear and the added value is obvious.
19. This requires an efficient and balanced distribution of tasks between the different levels of decision-making. Political action needs to be “disentangled”, i.e. citizens need to be able to understand at which level (European, national or regional) a decision was taken and why.

### **Better Regulation and Simplification**

20. The existing Acquis in the field of European Home Affairs which was developed step by step is necessarily unstructured and therefore difficult to explain to European citizens. Sometimes it is hard to understand even for specialists. It is considered by some as being both too juridical and too technical: it consists of a high number and a large variety of regulations, directives and framework decisions, as well as bi- and multilateral agreements. Some of these instruments overlap, and the legal basis for some actions can be found in different acts. Finally, it is becoming increasingly difficult and time-consuming to monitor the proper implementation of European Union Directives by as many as 27 Member States.
21. On the basis of this analysis, the Group suggests the following measures aimed at improving the *status quo*:
  - Law needs to be coherent, clear, understandable and accessible. Therefore it should be examined whether a structured, consolidated compilation of all existing secondary law in the area of European Home Affairs can be made available (electronically) to the public. In addition, consideration should be given to ways of enhancing the better regulation exercise.
  - With the objective of minimising the difficulty of monitoring their proper implementation, the process of transposing European Union Directives should be better coordinated.
  - Furthermore, it should be reflected whether and to what extent existing and future legislation could be codified. One option could be to concentrate and bundle European legislation in Codices, completing them, when necessary, with a compilation of bi- and multilateral agreements, comprising all legislation for a specific area in a user- and reader-friendly way. These Codices could allow for an advanced and flexible system of legislation in European Home Affairs and could become a key element in making the Acquis more transparent, easier to understand and simpler to apply. The Visa Codex (adoption pending) is a good example in this context.
22. Since the setting up of such Codices is a multi-annual and far-reaching project, the Group suggests first launching a feasibility study immediately after the adoption of the "post-Hague Programme". The study should also be used

for the development of further ideas on how to exercise existing European Union powers in the field of European Union Home Affairs in a simpler and more structured manner with the objective of taking them into account in the context of the evaluation of the post-Hague Programme.

### **Prioritisation**

23. In general terms, in developing long and medium-term prior targets and possible ways of achieving these objectives, the European decision-makers should take into consideration whether European action in these fields generates an added value in accordance with the principles of subsidiarity and proportionality as enshrined in the Treaties.
24. Prior to adoption of any new instruments and establishment of new mechanisms, the effectiveness of current legislation and measures should be fully exploited or, if desirable, further enhanced.
25. In this context, when taking into account the whole range of competences in European Union Home Affairs, clear political priorities have to be pre-defined in order to focus activities on selected important targets. This would also imply better oriented action and better use of available resources.

### **Communication**

26. Communication is key to bringing the results of European Home Affairs policies closer to people's everyday life. To this end the European Commission as well as Member States should enter into a discussion on ways to better communicate the concrete results of European Home Affairs policy to citizens and to develop a concept of how to best present its contents. This would include, for example, high-profile debates with a view to forming a more aware and positive public opinion. In communicating European Union legislation and policies, all decision-makers should take into account in their public statements the fact that adoption has been a common task involving the Council, i.e. the Member States, the European Commission and the European Parliament.

### **Financial Resources**

27. For the period of 2007-2013, more financial resources are available to Member States in the area of Justice and Home Affairs, e.g. in migration, border management and prevention of crime and terrorism, as well as in security research. Based on experience gained up to 2009, the European Commission should, at the beginning of the implementation period of the "post-Hague Programme", provide a comprehensive breakdown of Community funds available in the area of Home Affairs. In addition, efforts should be made to better tailor the available funds to the special nature of operational projects with real impact to be proposed by Member States, as well as proposing more user-friendly procedures for access from beneficiaries to such funds. Member States have to build up better functioning information channels within national governments and from them to possible applicants. In this context it would be a great benefit if the Commission could examine how to provide more

addressee-oriented information and guidance on the scope and the availability of funds.

### **3.) Horizontal political challenges**

28. In the upcoming decade the main tasks for political leaders in the area of European Home Affairs will be to safeguard freedom, security and privacy of European citizens while at the same time shaping Europe's position in a globalised world. This includes reacting to security, migration and technological challenges as well as acting as frontrunner with regard to the chances globalisation provides. Special attention has to be paid to the new challenges resulting from internationalisation, the worldwide use of information and communication technologies and the increasing mobility of persons and goods. Our common aim must be to adapt our legal provisions and political decisions to these challenges while upholding our constitutional and legal orders and the rule of law.
29. To safeguard and complete the area of freedom, security and justice in the light of continuously changing framework conditions, the Group considers that all political concepts will have to be developed on the basis of the following three horizontal pillars:

#### **Preserving the “European model” in the area of European Home Affairs by balancing mobility, security and privacy**

30. Mobility, security and privacy (comprising private life as well as data protection) constitute a triangle influencing all areas of European Home affairs. Especially the possibilities of mobility of persons and, as a consequence, freedom, have increased over the past few years due to technological progress and political developments such as the enlargement of the Schengen area. These rapid developments require tackling the balancing not only of security and privacy, aspects to which the subject is often reduced in the public debate, but the triangle formed by mobility, security and privacy as a general underlying challenge for the post-Hague Programme. The three issues are closely interlinked and dependent on each other. For example, the general perception is that measures to enhance security (e.g. availability of data for police forces and law enforcement authorities, and increased checks at airports) undermine privacy and mobility, whilst measures to increase mobility are seen to have an adverse affect on security, etc. However, if citizens did not feel secure, then it is highly likely that they would not wish to travel at all.
31. One priority for each proposal based on the post-Hague Programme therefore will be the reflection on how to balance mobility, security and privacy in a proportionate way. There is a need to overcome the stereotype of seeing security, mobility and privacy as opposing concepts which exclude each other. Therefore, under the post-Hague Programme, an intensive public debate including a substantial inter-institutional discussion involving the European and national parliaments will have to be launched on how to address the current

equilibrium in a way that allows for significantly improved security, at the same time as equally enhanced privacy and mobility.

32. Databases and new technologies will play a central role in further developing Home Affairs policies in the areas of border management, migration, the fight against organised crime and terrorism. Even if technology can never completely replace the human factor, technological progress can provide the necessary means to optimise mobility, security and privacy simultaneously. In particular, enhanced use of technological developments can provide satisfactory solutions to the important issue of how to ensure more security for citizens and at the same time greater protection of their right to privacy. Developing innovative technologies and improving their effectiveness should therefore be a key aspect in balancing mobility, security and privacy.

### **Coping with the growing interdependence between internal and external security**

33. A further new pillar in comparison to the Hague Programme is the increasing interdependence between internal and external security. This will make external relations a priority for the future design of European Home Affairs. In all Home Affairs policy fields, the European Union needs to shift its attention towards the emerging challenge of incorporating external aspects, and to co-operate with relevant third States. This requires a coherent external concept, especially taking into account the increasing interdependence between internal and external security.
34. The Group strongly advocates developing a holistic concept covering e.g. development, migration, security, economic, financial, trade and foreign policy aspects in this regard, allowing the European Union to play a responsible and credible role in international relations.

### **Ensuring the best possible flow of data within European information networks**

35. We are living in a global information society covering all areas of social life. Home Affairs policies have to keep pace with this development in which the rapid exchange of information is a key aspect for efficiency and success.
36. Suitable and state-of-the-art information networks and databases are needed within European Home Affairs. Information technology management strategies and solutions have to be developed to provide the technical support for political objectives. Technical feasibility, efficiency and cost-effectiveness on the one hand and legal sensitivity of the data on the other should be decisive for the question of how systems of access should be designed. As a long-term objective, only a common European standard for data storage and transmission, including compatibility guidelines and harmonised technical data formats, can improve the conditions for more efficient information sharing. In the post-Hague Programme, these principles should be further developed especially taking the first pillar on balancing mobility, security and privacy into account.

#### **4.) Priority policy areas**

37. Based on these three horizontal pillars, the Group suggests, in the following chapters, setting the political priorities of the post-Hague Programme in the areas of police cooperation and the fight against terrorism, the management of third country missions, migration and asylum as well as border management, civil protection, new technologies and information networks.

## Chapter II: Preserving Internal Security and External Stability

### 1.) Police cooperation

38. Police cooperation covers a broad range of common policies, aligned along three major axes: making police officers more aware of European themes and of the legal systems of other Member States; cooperating with other Member States' police forces in the field, particularly in border zones; and sharing information with other Member States' police forces, making use *inter alia* of Europol.
39. Strengthening these axes of cooperation over the coming years is an essential question for the Member States, which are confronted with security risks that often go beyond the limits of their territory. In each of these three domains, it is particularly important to take into account technological development in the area of security, in order to provide Member States' police forces with effective tools that respond to current transformations.
40. Police cooperation covers various domains which have evolved very differently over the past few years. There have been important changes regarding the improvement of police cooperation and they can be hard to understand for both security practitioners and citizens of the Union in general. It is necessary to ensure that different aspects of police cooperation progress in a coherent and coordinated way, so that certain areas, which may be very important, do not fall back in relation to the others. This principle of coordinated improvement could serve as a guideline for the work of Member States and the European institutions in the future, provided that it brings added value.
41. The Member States' police forces need to be trained also at European level, in order to ensure mutual understanding and an exchange of best practices. Indeed, it is indispensable that police forces in the Member States acquire a European dimension. Two closely linked objectives can be identified: facilitating collaborative work by acquiring knowledge of other States' systems and raising the level of professionalism of European police agents through exchange of experience. The establishment of the European Police College (CEPOL) in 2001 marked a commitment to providing European training for police officers. For the past 2 years CEPOL has provided training to 2500 police officers from Member States and should continue to further develop these activities.
  - These dimensions of training policies could be enhanced by systematising training initiatives in Member States and expanding them to include every level of the police hierarchy, in particular middle-ranking officers. It would thus be advantageous to reinforce the strategy implemented by CEPOL, of widely diffusing this knowledge within the Union.
  - Teaching methods could be diversified, with an emphasis on computer-assisted instruction. Officer exchange programmes could also be developed further by integrating "Police Erasmus programmes" into initial

training curricula and into continuing education for police officers. Language training should also be improved so as to attain satisfactory levels of foreign language competency among police personnel.

- Finally, there is the question of the choice of a working model of CEPOL. The States seem to prefer the idea of an agency based on the network of Member States' training institutions. This principle has ensured thus far certain uniformity, standardising training policies in Member States and CEPOL activities; it would make sense for CEPOL to have a general overview of training at European level offered to police officers throughout the EU. It should develop its activities in this direction.
42. Furthermore, the Group agreed that cooperation in the field should be enhanced, in order to improve internal security within the European Union and especially in the Schengen area. The tools for that kind of cooperation should be developed and diversified.
43. Set up by bilateral or multilateral agreements between the States concerned, Police and Customs Cooperation Centres (PCCC) are support tools for direct cross-border cooperation that bring together in the same place officers of two, three or even four countries.
- PCCCs can be developed as an essential tool for police cooperation in particular in the border zones. The structure and missions of PCCCs could be re-evaluated, in order to make them real police-customs centres of crisis management capable of handling events on an international scale. Especially in the border zone, PCCCs could become a model of future police cooperation.
44. Joint Investigation Teams (JIT) are an important aspect of cross-border cooperation in crime investigation. Member States have the power to create JITs allowing officers of two or several Member States to work together on a criminal investigation, each State allowing officers of the other State to perform certain investigation activities on its territory. The involvement of Europol officers in JITs is also possible. JITs appear to be an efficient tool in large-scale, complex investigations requiring concerted, coordinated action on the part of the Member States concerned. In the existing legal context, it is crucial to take better advantage of Europol's availability, in order to benefit from its analytical strengths.
45. However, JITs do not seem to be suitable for all types of criminal investigation with an international aspect. For certain aspects of criminal investigation, it will probably be necessary to work towards a simplification of the regulations applied when an investigation needs to be carried out on the territory of another Member State. There are many ways in which police and legal cooperation – which are closely related – could be improved. One would be to allow police officers, after the simplified formalities, to perform non-coercive acts on the territory of another Member State, such as taking witness testimony on a voluntary basis. Another simplification would be a system of written requests for information by public entities or individuals from one country to another. Such a system would make today's extremely constraining

procedural practices more flexible, without affecting the general principles of legal cooperation in criminal matters.

46. Finally, the Group pointed out the need for improving the environment of police cooperation, especially by reinforcing Europol, exchanging knowledge and integrating police file management and security technologies.
- At the moment, the objective of Europol is to improve the fight against organised crime and terrorism whenever two or more Member States are affected. The current transformation of the Europol Convention into the legal framework of the European Council decision will extend the Europol mandate to encompass all forms of serious crime and also to improve its functioning.
  - Europol is to function as a close partner and focal point for national police forces at the European level. The Group proposes that the following measures be considered for the post-Hague Programme:
  - Within its legal framework Europol should be increasingly used and expanded into a centre of competence for technical support.
  - Moreover, Europol should develop its capacity to diffuse intelligence to Member States' police forces. To achieve that aim it is necessary to guarantee that information is transmitted to Europol and used by Member States. The requirement of the so-called "Swedish" framework decision of 18 December 2006, that information is shared, could be fulfilled by means of creating automatic data transfer instruments. At the same time, Europol National Unit (ENU) structures could be made more flexible to provide smoother links between operational services and Europol.
  - Taking into account the external dimension of police cooperation, in the long run a "security partnership" between Europol and Interpol through mutual information and consultation on working programmes should be envisaged.
47. Networking in police cooperation should also be extended. Police activities cover various fields of action particularly in the fight against organised crime and terrorism. The specialists in these different areas regarding criminal activity should share their professional skills and knowledge on a wider level. These specialists, along with Europol, could work together through a network which would help collect specific information that would give the Committee on Internal Security food for thought on internal security strategy.
48. Beyond police cooperation in the strictest sense, the Hague Programme also recommended upgrading information exchanges in order to improve the functioning of crime prevention services in the Member States. In order to achieve a better exchange of information among police services of the Member States, the respective provisions of the Treaty of Prüm, integrated in the *acquis* of the European Union, should be fully implemented.

49. Furthermore, this enhancement is made possible by broadening the range of information that is pooled: the extension of SIS to the new Member States, thanks to SISone4all; the implementation of SIS II, which will be able to integrate biometric data; and that of VIS all marked the increasing role of information systems in police cooperation.
50. The technical management of SIS-, VIS- and Eurodac-type European files could be grouped within a single specific structure for greater efficiency, on the basis of a preliminary evaluation. This structure for security technology could also be given the broader role of guaranteeing that all police files and other technological materials are interoperable.
51. Indeed, beyond the technical aspects of pooling files, security technologies can offer significant possibilities in the area of police cooperation. As is well-known, the entire area of security technology has undergone major developments in the past few years. Efforts must be made to standardise new materials in order to obtain better interoperability, especially in the areas of video surveillance, Internet telephony, and police use of unpiloted aircraft. Sharing certain state-of-the-art materials requiring large investments should be considered when they do not need to be in continuous use. It appears that this sector cannot be managed politically by individual Member States or industrially only by the companies working in this field.
52. Intensified use should be made of means available in the context of the 7<sup>th</sup> research framework programme (security research programme) for objectives connected with police cooperation, the fight against terrorism, border management and information and communication technology objectives.
53. Some of the proposals relating to networking and integrated management in the security area could be dealt with within the Council Working Group on information exchange.

## **2.) Fighting global terrorism**

54. The European Union should play an active role in the worldwide fight against terror, based on a comprehensive global approach including preventive and repressive elements. In order to provide the greatest possible protection for citizens of the European Union against the terrorist threat, political and legal actions focusing on preventive measures are of special importance in a medium and long-term perspective. In particular, pro-active measures against radicalisation and recruitment must be further developed and implemented, taking into account the potentials of civil society and the economy.
55. Due to the lasting and multi-faceted threats caused by terrorism, common action and the pooling of resources of the Member States of the European Union and European institutions, in line with their competences, are indispensable in the area of counter-terrorism. It is crucial that Member States further intensify their cooperation. In this context, the Group considers it necessary to fully implement and further develop a comprehensive approach

as laid down in the European Union Counter-Terrorism Strategy, according to up-to-date threat assessments.

56. The intra-European structures dealing with the prevention of and the fight against terrorism should be improved in order to ensure efficient, coherent and speedy counter-action. Thereby, the main responsibility of Member States for the prevention of and the fight against terrorism and the political objective of achieving synergy effects as far as possible need to be combined.
  - For example, it should be reflected on how to improve coordination of anti-terrorism policy at European level with a view to closer cooperation of different actors. Coordination will remain fragmentary unless it covers not only the work within the Council but also in relation to the European Commission, Europol, Eurojust and the Joint Situation Centre (SitCen). In line with this, a concept should be developed on the future institutional architecture in this area.
  - Similarly, a dovetailing of the fight against terrorism with civil protection policy should be considered. The European rules on civil protection should facilitate a civil protection response to all major emergencies, including acts of terrorism.
57. The Group suggests asking the European Commission to identify the potential offered by greater cooperation with civil society organisations and to propose appropriate fields and forms of cooperation. Over and above analysing and reacting to radicalisation and recruitment efforts, this could assist the development of active counter-measures by government agencies and civil society to oppose such phenomena.
58. The Internet is increasingly misused by terrorists in various ways, namely for incitement, recruitment purposes or for practical support for potential terrorists. It thereby has become a decisive vector for radicalisation. Checking the Internet is therefore a paramount task. The Group therefore considers that further reflection on possible measures directed against terrorist use of the Internet is indispensable.
59. At the same time, the Group holds that the fight against terrorism itself has to make the most efficient and pro-active use of the Internet with the aim of de-radicalisation. "Cultural intelligence" needs to fight radicalisation over the Internet and the media, thereby especially taking into consideration the special characteristics of "cyber-language".
60. The Group therefore recommends further developing the Media Communication Strategy in the following ways:
  - focusing on intercultural dialogue and developing a clear and convincing positive message to different communities in Europe and abroad – possibly even in non-European languages, with regard to European core values of good governance, fundamental rights and safeguarding of peace and freedom;

- challenging the terrorist message and countering the single narrative, *inter alia* making it very clear that terrorist speech leads to further aggression and that terrorist propaganda is not covered by the freedom of speech; and
  - making pro-active use of Internet information fora in this respect.
61. The Group considers it essential to intensify the exchange of best practices between Member States and possibly with third States in order to develop and elaborate legal bases, for example with regard to:
- appropriate measures to fight home-grown terrorism based on current discussions;
  - new and more flexible expulsion and surveillance measures respecting fundamental rights and laws of the Member States;
  - consider, in the context of public international law, the need for international law in the area of police, including the development of international standards on criminal law dealing with acts preparatory to terrorism based on current discussions.
62. Action at national level can only achieve the best results if maximum information flow between Member States is guaranteed. While an exchange of information between national police forces is increasingly seen as common sense, the exchange of information between intelligence services creates a considerable challenge for the European Union. A possible solution for increased synergies between police and security intelligence services at national level is the establishment of networks of anti-terrorist centres in Member States. On the one hand, relevant security-related information should be available to all security authorities in the Member States. On the other hand, this principle of availability collides with the “principle of confidentiality” which is essential for the exchange of information by national intelligence services. Careful consideration is needed regarding the question of whether and to what extent European Union structures could contribute to bringing these divergent interests in line with each other. In this context particular consideration must be given to the role of SitCen.
63. The Group also recommends:
- further improvement of practical cooperation and information exchange between police and judicial authorities, in particular through Europol and Eurojust;
  - intensified use of Europol databases, namely the Europol Information System;
  - intensified cooperation between Europol and SitCen.

64. Special investigative techniques should be placed higher on the agenda of the European Union. As regards video surveillance, further measures should be discussed in the light of pending analyses.
65. Special attention should be paid to the control of explosives, detonators and precursors.
66. Preventing terrorist financing remains a permanent task of Member States and European Union institutions. Therefore, the European Union's strategy to combat terrorist financing should be further developed.
  - Cooperation between Financial Intelligence Units should be enhanced, while a possible future measure could be the systematic monitoring of financial transactions in the Union.
  - Law enforcement agencies responsible for combating terrorist financing should be provided with more efficient legal instruments which might authorise them to use databases such as SWIFT.
67. A responsible and up-to-date European counter-terrorism policy cannot neglect the possible threat of terrorist attacks with nuclear, biological or chemical weapons. It is obvious that this risk confronts all States with an exceptional challenge as regards the prevention of an attack, immediate reaction to an attack as well as the ensuing civil protection and crisis management measures. Existing instruments still need to be improved. Therefore, the European Union needs to further develop and adapt its counter-terrorism strategy in order to fully cover prevention, reaction, civil protection and crisis management, also with regard to CBRN terrorism. This should include proposals on how to improve transport security and better protection against the illegal import of hazardous substances, such as:
  - effective controls of container transport operations entering the EU, including transport checks to avoid the import of radioactive and certain biological and chemical materials;
  - background security checks of transport employees linked to authorisation to access critical infrastructures.
68. In addition, the Group suggests creating a platform or mechanism for sharing information between the Member States' special police units responsible for dealing with current CBRN situations, allowing CBRN units to share best practices in managing such situations, to report on relevant research projects and results, and to participate in each other's CBRN training exercises.
69. The particular positive characteristics of cooperation of third countries with the European Union should be promoted. This refers to the tradition of providing security within the rule of law and democratic structures as well as the diversity of cultural experiences and intercultural competences because of its own multi-ethnicity and its geographical setting.

70. To achieve the increased cooperation that is needed within the Union and with third States and regions, Home Affairs ministers and Foreign Affairs ministers should increasingly act as natural partners.
71. The European Union will inevitably need strong partners to succeed in the fight against terrorism on a global scale. In the same way as Europe, the United States is especially confronted with these threats. Therefore the Group considers close and continuous cooperation with the United States to be indispensable. First of all, this requires a greater understanding of the *de lege lata* situation on both sides. In the medium term, this cooperation should lead to greater convergence, including in the different legal frameworks of data protection. By 2014 the European Union should also make up its mind with regard to the political objective of achieving a Euro-Atlantic area of cooperation with the United States in the field of Freedom, Security and Justice.
72. In this context, the European Union should also deepen the regular dialogue mechanism with the Russian Federation within the framework of the Permanent Partnership Council on security, also including, where appropriate, trilateral meetings with the United States.
73. Intensified cooperation is also needed with States and regions that are considered to be particularly relevant for terrorist structures and activities, either as targets of terrorism or lacking the means to effectively challenge it.
74. The European Union has reached agreement on a common definition of terrorism. However, the global fight against terrorism suffers from the fact that there is no UN-wide common definition of terrorism. The discussions in the United Nations on the UN Comprehensive Convention on International Terrorism need to be continued with the aim of common agreement on a definition. The European Union, the United States, the Russian Federation and other partners should work together towards this objective.

### **3.) Coordinating third-country missions**

75. The recent years have shown three parallel but interdependent developments:
  - inside the European Union, increasing cooperation in the area of security, namely police cooperation;
  - globally, a growing internationalisation of conflict resolution following from the blurriness between internal and external security increasingly requiring engagement abroad;
  - and, as a consequence, a growing political willingness of the European Union to use its weight and capabilities in international conflict situations.
76. This has resulted in an increasing number of third-country missions including a commitment by the European Union to provide police and military forces, civil protection entities and civilian staff in charge of e.g. institution-building, rule-of-

law missions, election monitoring, democratisation, civil society and humanitarian aid. Demands in the operational areas on military and police forces as well as on civil protection and other entities are multifaceted and interlinked: the vast variety of threats ranges from war situations to terrorist attacks, organised crime, violent demonstrations, natural or man-made disasters and usual police tasks.

77. Experience gained up to now has revealed significant shortcomings in the area of cooperation and internal decision-making involving different actors and rather bureaucratic internal rules blocking the European Union from quickly coping with needs and demands of the forces abroad. The following principles should guide future policy and decision-making:
78. A closer link between European police, external and defence policy and consequently a closer correlation between the different policy areas within the European Foreign and Security Policy needs to be established. This would allow for a better use of the expertise and experience of the police in the planning and evaluation of civilian crisis missions. To this end, closer cooperation between different Council structures (General and External Affairs, Justice and Home Affairs) involving a prior consultation as well as a post-evaluation of missions is indispensable. In financial terms we could pool European Union resources for third-country missions to enable the European Union to provide them faster.
79. The increasing variety of threats requires the European Union and others to cope with the overlapping police and military challenges in crisis regions. The mission command needs to be able to respond flexibly, i.e. to be able to call up personnel trained to cope with specific threat situations. Therefore, common robust police forces able to exercise armed law enforcement should be available for third-country missions. To this end, participating Member States could be asked to provide Integrated Police Units for certain missions. Future reflections should also include the integration of the “European Gendarmerie Force” and civilian police units from Member States into the legal framework of the European Union. Common education and training of those forces would be appropriate.
80. In addition, a maximum degree of transparency, coordination and information flow between all actors and structures should be achieved. An even closer correlation and increased mutual use of external, military, security, police, civil protection and development aid expertise could *inter alia* be established through:
  - enhanced and more coherent cooperation between the civilian and military elements through stronger political support for the Civilian Operations Commander – one commander for all missions – and his Civilian Planning and Conduct Capability;
  - missions’ situation centres bringing together all entities participating in the mission - e.g. military, police, rule of law, civil protection entities - on an equal footing;

- fully integrating civil protection assets and capabilities identified by the Member States for civilian crisis management operations into European Security and Defence Policy missions, with setting up infrastructure an important condition for peace and stability.

81. Finally, in relation to police work:

- it should be examined whether and to what extent the police-liaison officer network should be extended and strengthened;
- consideration should be given as to whether to establish an institutional link between the police missions and Europol to allow for optimal collection of security information gathered in the course of missions abroad relevant to Europol.

## **Chapter III: Managing Migration, Asylum, External Borders and Integration**

### **1.) Migration policy**

82. Migration is an inherent phenomenon in our increasingly globalised societies and economies. In the European Union, many Member States experience growing immigration. Demographic trends will create even more demand for labour immigration. These factors increase the need for further development of a forward-looking, broad and comprehensive common European Migration Policy frequently highlighted by the European Council in its Conclusions during the years 2005-2007. This Comprehensive European Migration Policy should remain a key policy objective in order to meet the challenges and further increase the benefits of migration.
83. Solidarity, mutual trust and responsibility among Member States and between them and the European Institutions are prerequisites for further successful development and implementation of the Comprehensive European Migration Policy. However, differences in needs, conditions and approaches of Member States persist. Nevertheless, these do not need to stand in the way of the further development of the Comprehensive European Migration Policy. Our task is to define a common basis and framework.
84. Increased coordination, cooperation and partnership should be an important component of the post-Hague process. At the same time, the post-Hague Programme should be based on effective monitoring and evaluation, i.e. a thorough analysis of achievements and deficits of the recent programmes and benchmarking with regard to the degree of fulfilment of goals set in these programmes.
85. Well-managed immigration can be beneficial to all. Immigration policies should consider all sides from a multidisciplinary point of view and by minimising losses and maximising mutual benefits while fully respecting national competences. On the basis of the European Commission's Communications on Asylum and Migration tabled in June 2008 and the Immigration Pact announced by the incoming French Presidency, the post-Hague Programme should set out common policy measures in the area of migration. The Group holds that a comprehensive migration policy is, in principle, based on the following interdependent pillars, making the allocation of adequate resources necessary:
- policies for well-managed legal migration;
  - strengthened measures against illegal immigration;
  - increased focus and means to foster positive synergies between migration and development;
  - improved management of the European Union's external borders;
  - integration of migrants; and

- completion of the Common European Asylum System.

In all aspects, cooperation with third countries is essential to ensure progress and results.

86. Citizens of third countries can play a significant economic and social role in the Member States' labour markets while contributing to sustainable development in their countries of origin. In order to maximise positive effects of legal migration for the benefit of all, i.e. countries of origin and destination as well as the migrants themselves, innovative approaches are needed. The overall aim must be to ensure that people migrate out of choice rather than necessity. This demands a broad, balanced and long-term approach. A key aspect in this process is fostering bilateral, regional and international cooperation and dialogue in the formulation and implementation of European Union migration policies.
87. The prerequisite for such legal migration is a demand for specific qualifications on the labour markets of the Member States on the one hand and a supply of workers from third countries possessing such qualifications on the other. Labour markets and social systems do differ in each Member State. Thus each Member State should retain responsibility for managing its labour market and determining volumes of admission of immigrants coming to their territory for work purposes. It is important that common European Union measures for labour migration should be demand-driven from a Member State perspective, and based on the principle of subsidiarity as well as on the principles of non-discrimination and equal rights.
88. Based on these principles, the post-Hague Programme should, amongst other important considerations, take into account the following – non-exhaustive – aspects and proposals in the area of migration policy:
  - Member States should fully exploit all possibilities of **intra-European economic migration**.
  - **Legal migration** should be treated *inter alia* from the perspective of the Lisbon Strategy and demographic developments in Europe: migration management and broader possibilities for third-country nationals to participate legally in the Member States' labour markets can play a role in achieving the objectives of the Lisbon Strategy, in easing the negative repercussions of demographic ageing, as well as in preventing illegal migration and associated criminal activities, such as smuggling, trafficking in human beings and labour exploitation.
  - Increased efforts to curb **illegal immigration** and, in particular, to prevent illegal employment which often leads to human exploitation remain important. A more effective and coordinated European return policy should be established. Harmonised rules for effective return procedures and decisions in Member States are needed which fully respect and guarantee human rights.

- General regularisations of illegally staying third-country nationals should be avoided, given the absence of internal border controls. Increased exchange of information between Member States and consistent use of the consultation mechanism prior to Member States adopting decisions on regularisation must be ensured in the future. However, in the future, regularisations in exceptional circumstances and with individual case-by-case approach could be acceptable. This is without prejudice to the negotiations within the framework of the European Pact on migration and asylum.
- Recognising the complementary linkage between immigration and integration, the Group considers **integration** to be one of the key elements for tackling migration and migration-related challenges. Successful management of the consequences of the influx of migrants for the receiving societies is often closely linked to the level of integration reached in the Member State, and integration potential is a prerequisite for legal long-term immigration. Integration policy is therefore an integral part of legal migration policy.
- Taking into account the fact that integration takes place in the local community or at regional level and the different conditions and approaches in the Member States, the Group supports that integration policies remain within the competence of Member States also in the future.
- As a complement to national integration policies, the Group proposes the following measures at the European level:
  - The regular dialogue and the exchange of best practices among Member States at European Union level within the common framework defined by the Council in December 2005 and June 2007 should be enhanced, while further action directed at strengthening this framework and developing the common agenda should be considered. This dialogue could include an exchange on the modules Member States have developed on certain aspects of integration, such as language or political institutions.
  - Respecting the different national approaches, a set of common minimum standards and requirements of both the immigrant and the Member State should be further implemented. A balance between the immigrant's rights and obligations must be found. The immigrant's personal responsibility and his own initiative in the process of his or hers and their family's integration need to be strengthened. Legitimate requirements of the receiving society have to be considered.
- The Group also holds that **intercultural exchanges** for better understanding, trust and ultimately solidarity should be extended. Exchange of best practices on existing national initiatives for an intercultural dialogue should be intensified.

- The Group proposes to set up and develop a European Union website for public information on integration as well as on intercultural dialogue.
- Efforts to promote **policy coherence** between migration and other relevant policy areas, especially development policies, in line with the European Union's broad agenda for Policy Coherence for Development, are crucial to the successful development of the Comprehensive European Migration Policy. Mechanisms to promote synergies and to identify and reconcile conflicting interests and goals between migration and development - and other policy areas such as foreign policy, international trade, peace and security, and the environment - should be explored and implemented.
- With regard to the **Global Approach to Migration**, an integrated approach should be applied. Dialogue, cooperation and partnership with countries of origin and transit should be deepened and broadened in terms of both actions and resources in a fully balanced manner.
- Consideration should be given to increased use of the instrument of mobility partnerships. The concept of mobility partnerships is based on an equitable "give and take" and utilises the economic potential of legal migration for the benefit of countries of origin as well as of those of destination while strengthening its development policy relevance. It thereby creates incentives for third States to cooperate more closely with the European Union in fighting illegal migration and efficient returns. Possible elements could be personnel and financial help in setting up of capacities, promotion of circular migration, academic cooperation or a link with development aid considerations.
- The concept of "circular migration" should be further developed, in particular in the context of closer cooperation and partnerships with third countries, in order to promote the positive development aspects of migration for countries of origin and destination whilst minimising negative effects such as "brain drain." In particular, consideration could be given to developing a system for transmitting the disbursement of pension or other social contributions to the country of origin, in order to allow migrants to keep their social benefits when returning to their home country, thereby making circular migration more attractive.
- Multilateral as well as bilateral partnership approaches between Member States and third countries should take into account new ideas to improve a deeper linkage between better management of migration, improvement of return policies and temporary or circular migration schemes. This may include offering incentives to third countries, like the admission of structured circular migration in relation to proved readmission of illegal immigrants. This kind of incentive could make developing third countries interested themselves in succeeding with reintegration and readmission policies.
- Information campaigns in countries of origin and transit are an important aspect in view of increased legal mobility between the European Union

and partner countries as well as being relevant to reduce the number of illegal migrants. Detailed information about legal possibilities of migration as well as possible consequences of illegal immigration may contribute significantly to the management of migration.

- Finally, current **financial instruments** should be evaluated and further developed according to new needs.

## 2.) Asylum policy

89. A certain degree of harmonisation in the area of asylum has been achieved since 1999. However, the existing common minimum standards agreed at EU level, which leave the Member States a wide margin of discretion in their application, have not led to a level playing field and do not guarantee equality of protection across the EU. In a common space based on the respect of fundamental rights, it is not admissible that the national application of one of them, the right to asylum, varies so much between the Member States.
90. One of the constituent parts of the Area of Freedom, Security and Justice is a **Common European Asylum System (CEAS)**. Its framework shall be based on the Geneva Convention. Its objective is to achieve common eligibility criteria for protection, common procedures for applying those criteria and a common status valid throughout the Member States. In order to achieve this and to reduce the differences between decisions taken by the Member States, it is necessary to continue with further harmonisation of the legislation in the field of asylum even after 2009, based on evaluation of the current legislation. This should be accompanied primarily by enhanced practical cooperation.
91. The challenge in devising a Common European Asylum System is inevitably intertwined with the wider issue of migration. The Union has to continue to provide secure borders and prevent illegal immigration at the same time as ensuring that those with a genuine right to asylum are able to claim it.
92. A Common European Asylum System requires a common legal framework with a series of uniform norms and standards. Procedural rules must be shaped on the basis of the principle of effectiveness while at the same time there must be assurance that it does not result in lowering the existing standards of protection.
93. The examination of asylum applications should remain at national level and every application should be examined individually. A coherent application and interpretation of the common rules must be ensured. The European Court of Justice must be granted sufficient means to be able to meet the requirements for swift processing.
94. Increasing practical cooperation between the Member States is a very important step towards a Common European Asylum System. This may involve common training courses, coordination of special measures, exchange of information and best practices, resettlement measures, administration of a common portal on country-of-origin information, etc. Closer cooperation will

lead to more equal treatment of asylum seekers and a more coherent approach to the processing of their asylum applications. The role of the **European Support Office** in coordinating such practical cooperation is essential.

95. An increase in the efficiency of the Dublin Regulation remains a challenge for all participants. Findings that emerge in the evaluation of the Dublin and Eurodac Regulations must be taken into account. The Dublin system is one of the cornerstones of a Common European Asylum System. A clear definition of the responsibilities of the Member States in processing asylum applications is indispensable, both for the asylum seeker and the Member States. Equally, on the basis of the evaluation of the current financial instruments financial solidarity solutions could also be further examined.
96. Increased emphasis on the external dimension of asylum policy is important. It is necessary to devote ourselves more intensely to the situation in the countries of origin and link the Common European Asylum System with humanitarian and development programmes in the third countries. Such a link should be systematic and should form a global approach to migration and asylum policies.
97. A **common asylum policy** cannot focus only on the asylum seekers who apply for asylum in a Member State. The European Union has a strong interest in maintaining the international refugee protection regime and should be a key player at the international level. Strengthening its partnership with UNHCR should be one of the means to carry out this endeavour. In this context cooperation with transit States should be enhanced, especially by using Regional Protection Programmes.
98. The concept of **Regional Protection Programmes (RPP)** should, on the basis of evaluation, be developed and if necessary redesigned, in order to ensure their added value as a strategic complement to other forms of humanitarian support and capacity building.
99. A **common resettlement instrument** should be created. Resettlement programmes should be used strategically to complement and encourage additional durable solutions in host countries (local integration) and countries of origin (return) and thereby ultimately contribute to solving protracted refugee situations. If all Member States could contribute to a common programme, we could attain the volumes necessary to achieve a strategic impact. The common resettlement scheme should be based on existing experience and best practices among the Member States and should lead to increased resettlement potential in the European Union.

### 3.) Modernising the Schengen border and visa approach

100. The Schengen system was established in the 1990s to achieve free movement of people as a necessary complement to the realisation of the internal market.
101. With the abolition of border controls between most of the Member States, the European Union has reached a historical landmark. The free movement of persons and goods is an achievement that finally put an end to the post-war period and the overall objective must be to preserve the integrity of the Schengen area while continuing to expand it.
102. The Schengen system, though still functioning well, needs to be continuously modernised and adapted to new political and technological challenges.
103. There is a need for a well-functioning balance between the desired free movement within Europe and a state-of-the-art border control system that combats illegal migration, organised crime and terrorism efficiently and with modern means. New technologies, hand in hand with well-trained border guards, must play a central role in border management. As a complement, adequate data protection tools are necessary. It is necessary to launch a transparent public debate to raise awareness of the advantages of increased use of information and communication technologies.
104. Checks and controls at the external borders should be as efficient and customer-friendly as possible. To achieve these aims, an “E-Border” concept on the basis of current reflections by the Commission should be established in the course of the post-Hague programme period. Bearing in mind the border package presented by the Commission on 13 February 2008, which aims to develop the integrated Border Management Strategy of the European Union in a comprehensive way, taking into account the possibilities offered by new technology, in particular the use of biometrics, action should be taken on:
  - a registered traveller’s programme; travel opportunities for certain groups of third-country nationals to the European Union should be facilitated;
  - an Electronic System for Travel Authorisation;
  - an entry/exit system for third-country nationals;
  - automated border control systems for European Union nationals, to speed up passenger flows.
105. Additional measures should be considered under the new Programme in order to develop security and smoother border control:
  - develop the European Border Surveillance System (Eurosur);
  - checks and controls at the external borders should be as efficient and customer-friendly as possible. A one-stop approach integrating all checks and controls carried out for different purposes, i.e. relating to persons,

goods, veterinary and phyto-sanitary, pollution, terrorism and organised crime, would contribute to this objective. In order to generate synergies and thereby added value, border and customs controls could be gradually merged.

106. Hand in hand with the facilitation of border controls, visa-issuing procedures should become more efficient. To this end the establishment of Common Visa Application Centres in third countries should be stepped up, and uniform European Schengen visas should be issued.
107. Border and visa policies should be treated as parts of a holistic approach linking specific progress/measurable benchmarks to the decision as to whether to abolish visa requirements vis-à-vis third States with the prospect of access or vis-à-vis neighbouring countries. This would encourage the development of more secure structures at an early stage and accelerate cooperation with Member States.

#### **4.) Further developing Frontex**

108. Several factors linked to globalisation and technological progress, as well as to Europe's economic development, contribute to the fact that the European Union is increasingly becoming a region of destination for worldwide migration, organised crime and international drug trafficking, and a target of terrorist attacks.
109. These developments increasingly require coordination and – where appropriate – implementation of security policies at EU level. In this context, Europol and Frontex have to cooperate closely with the national (border) police forces. Nevertheless, there are widely differing views on how far European agencies should be strengthened.
110. With regard to the – still young – Frontex agency, the Group recommends a step-by-step approach.
111. There are, however, several far-reaching measures that can be recommended in order to give Frontex the central role it needs to efficiently contribute to its functioning as the European focal point for integrated border issues.
112. Experience to date shows that successful operational missions led by Frontex depend on a clear legal framework as well as close links to Member States' border forces. The operational capacity of Frontex in the area of border control needs to be further developed:
  - the success of Frontex missions to date is undermined by the lack of precise legal provisions on, for example, the regime governing Frontex measures with regard to e.g. sovereign action executed by national ships or planes and responsibilities for refugees, asylum seekers and castaways. Therefore, priority should be given to the development of such common rules.

- Frontex Reinforcement Teams need to be speedily implemented, *inter alia* involving the secondment of Member States' border policing experts to the agency, subsequently taking special account of priority border areas.
  - Frontex should be closely involved in the European Surveillance System.
  - Consideration should be given to establishing regional and/or specialised branches.
  - Member States should fully cooperate to make the Frontex tool box function effectively. At the same time, consideration should be given to providing Frontex with its own equipment for border control as necessary, taking into account the experience of other Community agencies.
  - Frontex needs responsibility to initiate, organise and coordinate joint operations as well as return flights to third countries (countries of destination).
113. Coherent and effective controls along the external borders of the European Union require the national border forces to be of a uniform high standard. To this end:
- Frontex needs to be able to regularly evaluate and inspect national border forces. Reflections in this context should include the option to replace the current – very infrequent – Schengen evaluations and should find a way to ensure appropriate participation by the Member States in the evaluations;
  - a European Border Guard Certificate in the area of training activities should be considered;
  - Frontex should be given an extended role as advisory body for the Member States in all technical border management questions.
114. Increased operational and coordinating responsibilities should be accompanied by complementary competences for Frontex aimed at achieving synergies, cost savings and better interoperability. This implies, for example, initiating and coordinating joint calls for tender and further coordinating options in the field of procurement.
115. Development of a common border police “corporate identity” depends on regular contacts between Frontex and national experts. To this end, the Group proposed that exchange programmes be promoted as a component of border guard training. Frontex should be responsible for the overall coordination of these measures, including responsibility for harmonising the individual training units in the Member States.
116. Finally, a joint examination should be carried out as to how far closer cooperation between Frontex and the Member States' border forces with the

responsible customs authorities would generate added value. For example, joint analyses, serving as the basis for joint measures, could help create synergies in combating illegal migration and drug trafficking.

## 5.) Enhancing cooperation with third States

117. The modern internal approach on managing migration, asylum and the external borders of the European Union, as outlined above, can counter the symptoms of illegal migration, but is not sufficient to deal with the systemic problem. Especially in this area, a responsible policy needs to follow the principle “prevention is better than a cure”. Therefore the Group strongly recommends further developing a politically shaped strategy vis-à-vis third States, which would in particular allow illegal migration to be curbed at its roots, with a focus on border management problems.
118. Acknowledging that cooperation with third countries can only take place successfully in accordance with the *do ut des* principle, such a strategy should include, inter alia, the following objectives which are essential from the European perspective:
- The Group maintains that it is necessary to examine whether and to what extent Frontex could play a greater role in supporting and building up border management organisations in third countries. For example, it would generate added value if Frontex conveyed to third countries strategies developed by the European Union in a more continuous and consistent way than if individual Member States were assigned this responsibility in the framework of twinning and similar projects.
  - Some Group members considered it to be in the European Union’s interest to assist and advise third countries on producing and issuing forgery-proof identity documents as well as detecting forged and falsified documents. They proposed to give Frontex first-hand responsibility in this respect, while Member States’ experts should be tasked to accompany Frontex activities in both these areas. Financial and/or technical support by the European Union will be needed in order to achieve the intended success.
  - A sustainable preliminary measure to resolve problems before they occur at the borders of the European Union is the installation of European immigration staff of the Member States in third States with responsibility for advising on visa and related questions and recruiting possible immigrants. In order to achieve a high degree of flexibility, permanent operational groups of immigration staff could be established.
  - As regards ongoing patrols at sea led by Frontex, the political objective should be to also include the territorial waters and “search and rescue areas” of third countries affected, thereby helping them to meet their obligations under public international law. In order to extend the radius of operations, thus lowering the risks for asylum seekers and combating illegal migration more effectively, agreements should be reached with

third States on joint patrols at sea as well as on coordinating measures. The Group recommends giving Frontex a central role in the implementation of such agreements. If and where appropriate, start-up financial or material assistance should be made available to third States, either as an asset in the framework of the negotiations or as an alternative to joint measures.

- In parallel, joint return measures should be facilitated. To this end, negotiations with third States in order to agree on practical arrangements should be intensified.

119. The willingness of third States to accept such agreements will clearly depend on the European Union making attractive offers in return, such as further development of mobility partnerships and circular migration. In particular, the Group recognises that a comprehensive European strategy on visas offers political leverage when dealing with third States.

## Chapter IV: Developing Civil Protection

120. Natural or man-made disasters usually have severe consequences and are often not limited to one Member State. In order to limit the consequences of catastrophes as far as possible, it is necessary to improve preventive measures and rapid response of civil protection capacities and the use of other tools to protect people, property and environment. The key to the future development of the Community Civil Protection Mechanism lies in the right balance between two most important principles: national responsibility and European solidarity.
121. Prevention is an essential prerequisite for effective civil protection. Member States are responsible for civil protection and must actively build up their capacities at national and local level, taking the necessary preventive measures to enable them to be prepared for their own safety and protection. Member States should improve their national capacity for prevention and preparedness, not only for natural disasters but also for chemical, biological, radiological and nuclear risks. Through prevention, human suffering and economic damage can be avoided more effectively.
122. Regional cooperation between Member States facing the same type of natural disasters (floods, forest fires) should be promoted and encouraged through exchange of best practices, training and practical cooperation.
123. Solidarity is a key principle within the European Union. Therefore, Member States confronted with major emergencies can expect to receive support by Member States and the Community. Supporting and additional civil protection measures by the European Union should complement the responsibility of Member States to ensure their own national and local capability. At EU level it is necessary to develop this solidarity principle, which will enable a country at risk to obtain appropriate help from other Member States.
124. European added value can be improved in several fields: better coordination of instruments and capacities available, putting together tools and resources, improving training in civil protection areas, improving inter-constitutional coordination and relations with third countries as well as coordination with other actors such as the United Nations.
125. Development of the Civil Protection Mechanism should follow a step-by-step approach; we need to fully implement the recent recast of the civil protection mechanism, including setting up the modules, and make appropriate use of the new financial instrument, especially its measures facilitating transport.
126. There is a general consensus on the need to establishing a tool box of modules, equipment and personnel that should be available in the event of a major emergency for the benefit of any Member State, transforming the actual database of the CECIS (Common European and Coordination Information System) into a more dynamic platform which will constitute a natural upgrade of existing tools.

127. The European Union should focus on a better knowledge of the existing capabilities, not only to be able to offer a better response in a situation of crisis but also to identify more effectively assets and the need for capacities avoiding duplication of resources. In addition it is necessary to provide for interoperability of communication systems, technical equipment and existing response systems and structures in order to better coordinate operations by national operational centers of the receiving Member State. Such an intervention could be of great help to any Member State affected, which could in this way acquire additional support in terms of staff and other resources and also obtain more specialised equipment which is not available in every country.
128. The Monitoring and Information Centre (MIC) functions as both an information platform and a service provider, and should be further developed. The MIC should reinforce its analytical capacities and competence for gathering, selecting, analysing and weighing the appropriate information to be transmitted to the participating States. To do so, it would be necessary to upgrade the existing MIC which could become a central coordination point, having had a more operational role.
129. There is a need for an improved system of common training in the civil protection field, possibly through the networking of existing training or a common definition of training standards. This European Civil Protection training network should have a broad scope and focus on prevention, preparedness and response. It should improve the coordination of civil protection assistance interventions by ensuring compatibility and complementarity between the intervention teams from the participating States. It will also enhance the skills of experts involved in civil protection assistance operations through the sharing of best practices.
130. In accordance with the principles mentioned above, further development of European reaction capabilities could reduce time taken to send help and assistance. The main role of such capabilities would be to facilitate cooperation in civil protection assistance interventions in the event of major emergencies which might require urgent response actions. This applies also to situations where there may be an imminent threat of such major emergencies.
131. The role of civil protection in preventing and managing the consequences of terrorism should be given greater attention. Measures to deal with the consequences of specific terrorist threats and the role of civil protection in the protection of critical infrastructures could be further developed.

## Chapter V: Using New Technologies and Information Networks

### 1.) Public security, privacy and technology

132. Balancing citizens' expectations of privacy against their expectations of proactive protection is not a new dilemma for public security organisations, but it is taking on an ever more acute form. In the “digital tsunami” environment the traditional measures to protect privacy will become less and less effective unless appropriate technological measures are used as an essential complement to legal means. In order to achieve a sufficient level of protection, “privacy-enhancing technologies” are absolutely essential to guarantee civil and political rights in the age of cyberspace.
133. Information is the key to protecting the public and in an increasingly connected world in which public security organisations will have access to almost limitless amounts of potentially useful information. This is a challenge as well as an opportunity – public security organisations will need to transform the way they work if they are to master this data tsunami and turn it into intelligence that produces safe, open and resilient communities. The key to effectiveness will be using technology to connect the capabilities of a multitude of stakeholders and ensure the right information gets to the right person in the form they are best able to use.
134. Member States should prioritise investment in innovative technologies that enable automated data analysis and improve real-time collaboration. Research in these areas should be encouraged, ensuring that ideas can move quickly from a research context to practical implementation.
135. Secondly, the European Union should ensure that these activities are coordinated as efficiently as possible. Member States should be aware of any significant research activities or pilot programmes being undertaken in other Member States and the teams involved in these activities should be given opportunities to share information and collaborate.
136. Thirdly, Member States individually and collectively should take a “platform” approach to delivering public security. This involves moving beyond interoperability and focusing on a services-oriented approach, so that outputs from different parts of the system can be shared (within and across organisations) and elements of the system can be easily and quickly reused.
137. Fourthly, Member States need to focus on building converged platforms – they need to move towards converged networks (or, where necessary, solutions that ensure all their networks can “talk” to each other) and they need to ensure all data streams are digital and capable of being meshed together.
138. Another way collaborative innovation could be encouraged would be to use the new collaborative tools in the workings of the European Security Research and Innovation Forum (ESRIF) to have a wide and deep discussion amongst experts of the type of projects that should win support and funding.

139. Efforts should be made to launch a “European Security Tool Pool” Initiative. Such a “tool pool” would not be a place, a body or a database but rather an innovative concept allowing Member State and European Union institutions to make available and secure tools of proven or potential use in the security field for appraisal and/or testing by authorities of other Member States and, where useful, support their mutual deployment e.g. by meeting related licence costs, translation and training.

## **2.) The Principle of Availability and a European Union Law Enforcement Information Management Strategy (EU IMS)**

140. It has long been agreed that a key factor for success in international cooperation in preventing and fighting crime is the exchange of information between law enforcement agencies. This conclusion is reiterated by the Group and pointed out as a major challenge for the enhancement of future EU law enforcement cooperation. For this reason, the Hague Programme also established the Principle of Availability (PoA) with a view to improving the exchange and availability of law enforcement information.
141. As regards the legal framework for the exchange of law enforcement information, a pragmatic step-by-step approach is needed towards a comprehensive and coherent strategy for EU information exchange. A list of data categories appropriate for use in further attempts towards more integration should be identified.
142. It is obvious that the implementation of the PoA is a complex matter that requires thorough reflection and discussion. Besides continuous political appraisal, the implementation of the PoA raises a number of other important issues, i.e. issues of a legal, organisational and technical nature. In addition, a sound data protection regime is a prerequisite for the implementation of the PoA. Although not yet completed in operational terms, perhaps the most prominent example of achievement so far is the incorporation of the Prüm Treaty on DNA, fingerprints and vehicle registrations into the EU acquis. Europol has also developed competence and a means to enhance availability at EU level.
143. Exchange of law enforcement information in European Justice and Home Affairs in general and in connection with the PoA has been dealt with according to an approach taking each issue in isolation. This has led to a somewhat uncoordinated and incoherent palette of information systems and instruments, but has also incurred costs and delays detrimental to operational work. It seems clear that in formulating a future EU policy on the exchange and availability of information, this is an opportune moment to go beyond the limited perspective of a case-by-case approach and aim for a holistic objective in law enforcement information management.
144. On this basis, the Group recommends in general for the post-Hague Programme that:

- the PoA be carried over to a new programme with necessary adjustments and additions;
- an EU JLS Information Management Strategy (EU IMS) be established, with a view to making the PoA tangible and providing a coordinated and coherent approach to the exchange of information, aiming at a professional, business-oriented and cost-effective use of information technology and information networks.

### **3.) Elements of the proposed EU JLS Law Enforcement Information Management Strategy (EU IMS)**

#### **Objectives**

145. The objectives enshrined in the PoA were developed in the 2005 report of the Friends of the Presidency on the implementation of the PoA (FoP report): “The objective must be to establish business processes which can facilitate the quick, efficient and cost-effective means for exchanging data. These processes must be accountable and incorporate good practices in the sharing of data. [...] The technical solution must be designed to meet current and future business needs, taking into account functional and technical requirements. Its functionality and interoperability should be maximised and it must be easy to expand and modify”.
146. These objectives can be said to encapsulate the discussions held within the Group and they could serve as a contribution to the formulation of policy on exchange of information beyond 2010.

#### **Setting out guidelines**

147. The objectives of the FoP report are also valid for law enforcement services at national level. Models describing communication and information flows have been developed, as well as specific guidelines to ensure that the solutions devised take into account present and future demands on interoperability, integration and cost efficiency. There is a need for such work also at EU level. An example of specific guidelines is the proposal for Council Conclusions on the definition of a policy for a coherent approach to the development of information technology (IT). This proposal is an appropriate expression of a holistic approach to exchange of information and work should therefore be undertaken to agree on such guidelines as one element of a future EU JLS Law Enforcement IMS.

#### **Updating the inventory**

148. An ad hoc study on the third-pillar information systems was presented in May 2003. The study provided a first general inventory of existing and planned law enforcement IT systems at EU level at the time. An updated, appropriately expanded and more business-oriented overview would inter alia contribute to ensuring that the capabilities of the systems are fully exploited and that overlapping mechanisms and duplications are avoided.

### **Establishing a dedicated working group**

149. A dedicated Council working group in which senior officials responsible for prioritising and balancing business needs and investments in technical solutions for information flows would enable progress towards an EU JLS Law Enforcement IMS as well as on specific endeavours to enhance the exchange of information. It is therefore recommended that such a group is established.

### **Developing a Common Requirements Vision**

150. Furthermore, a basic element for any law enforcement service is to identify needs or requirements in terms of access to information and intelligence. During 2008, the Police Chiefs Task Force is expected to establish a Common Requirements Vision (CRV). The Group anticipates that on the basis of the CRV as one element, it will be possible to describe the desired situation of information exchange, i.e. an Information Model based on business practitioners' needs. The transition to the desired situation can then be effected through a progressive approach and should be guided by an Information Management Strategy.

### **Using a coherent approach**

151. The Common Requirements Vision and an Information Model should be seen in conjunction with the agreed progressive (data field by data field) approach to further work on the PoA. A key issue is to assess which types of information are useful, needed or required, i.e. carry out a prioritisation. So far a total of 49 types of relevant information have been identified, of which six have been the subject of an assessment as to how the PoA could be applied to them (DNA, fingerprints, ballistics, vehicle registrations, telephone numbers and minimum data for the identification of persons contained in civil registers). Departing from the work already done, a top ten list of data categories appropriate for use in further attempts towards more integration should be identified.
152. Continued work on the progressive approach in the overall context of an EU Law Enforcement IMS would also look at technical means and modalities, in particular to find out whether law enforcement services at a strategic level in other Member States hold or have access to information needed for successful operational work and cooperation. The continuation of work on the progressive approach should be carried out by the aforesaid dedicated working group on exchange of information for further consideration by the Council. Such work in conjunction with an Information Model will also assist in identifying the needs for enhanced functionality for already existing systems.

### **Ensuring data protection**

153. Finally, an adequate normative framework as well as specific provisions on data protection are essential requirements for the implementation of the PoA. Besides the Framework Decision on data protection, specific provisions should be developed. As new actions are undertaken, additional standards for the processing of information potentially aimed at EU cooperation might be

needed. Effort to bring national legislations and practices into line can and should also be continued in order to progressively improve their compatibility whilst adapting them to current law enforcement realities.

154. Ensuring greater public understanding of the benefits of data sharing between Member States should be a priority. The strategy should include a commitment to make clear to European Union citizens how information will be processed and protected, on the basis of proportionality and necessity.

## **Chapter VI: Implementing the External Dimension of Home Affairs Policy**

155. In the era of globalisation, external relations increasingly comprise challenges linked simultaneously to various policy areas. This development requires a modern policy response able to keep pace with the growing complexity and speed of change. Interlinked policy areas demand an integrated approach intensifying the cooperation between the responsible Ministers and Commissioners for Foreign or External Affairs, Development Policy, Defence and Home Affairs, depending on the subject. This cooperation should be realised by way of consultation and, where appropriate, joint meetings.
156. Key thematic priorities within the external dimension of the area of freedom, security and justice are migration, the fight against terrorism and organised crime and strengthening fundamental rights.
157. Cooperation with neighbouring regions should also address security concerns in the European Union and making best use of all leverages available. Relations with third countries should be based on partnership in order to meet common challenges and shared policy objectives. A differentiated and flexible approach to individual third countries and regions is warranted, which recognises the importance of working with the European Union's neighbours given their proximity. Comprehensive policies encompassing all aspects of justice, freedom and security are being developed with priority countries, such as candidate or neighbourhood countries, while with other countries cooperation will focus on specific issues.
158. Where appropriate and as a complement to the European Union, Member States should mobilise their significant political, financial and operational resources alongside the Community and Union to work towards common objectives. In addition to the ongoing work on geographic and thematic issues, the European Union should take forward action on specific priority issues by means of Action Oriented Papers.
159. In the area of freedom, security and justice, actions and measures have to follow strict geographical prioritisation and political differentiation: the European Union first has to define its key strategic interests. To this end, the European Commission should table an issues paper at the beginning of the period of the post-Hague Programme". At a second stage the European Union has to identify which third countries are of vital interest for cooperation.

### **Thematic challenges**

160. Terrorism is a constant threat. Terrorist attacks have led to an increased international commitment to combat terrorism, as exemplified by the EU Action Plan on Combating Terrorism. The European Union is reaching out to third countries, regional and international organisations to develop and deepen cooperation in this context. Efforts will be directed towards the protection of people and critical infrastructure.
161. The ever-growing sophistication in organised crime, including money laundering and other financial crimes, and cross-border trafficking in drugs,

persons and arms can only be countered through improved law enforcement and judicial cooperation, both within the European Union and externally, and through support for capacity-building in third countries.

162. Given the economic and/or social gap between the European Union and other regions, migration, including the problem of illegal immigration, is set to continue. This requires increased dialogue and true partnership with partner countries in order to focus, develop and benefit from synergies between migration and development. Instruments under the Global Approach to Migration should be further developed and implemented in order to achieve cooperation with third countries.
163. Another requirement and policy priority is the protection of fundamental rights. We need to promote human rights in third countries in order to ensure that they are placed at the heart of law enforcement policies. As to the latter, developments in information technology and enhanced use of databases within the European Union (e.g. SIS II, Visa Information System, possibly an entry-exit control system) will raise *inter alia* the question of increased data exchanges also with third countries with implications for our data protection regime that need to be considered. A clear legal framework for protection of data inside the European Union and when transferred to third countries is essential. The European Union has a strong political interest in presenting a coherent policy in this sensitive matter by signalling to third countries that data transfers can take place provided that certain guarantees are in place.

### **Geographical challenges**

164. Enlargement means the transposition of the *acquis*, as well as the transformation of institutions, in the **candidate countries**. The accession process should focus on reform in the area of justice and home affairs from the very beginning. It should be assured that the necessary reforms are fully implemented prior to accession in order to allow subsequent harmonisation among Member States in this sensitive field. The strengthening of institutions such as the judiciary and the police makes a decisive contribution to consolidating the rule of law and respect for human rights in the candidate countries.
165. Cooperation with the **Western Balkan countries** is intensive, with the aim of strengthening stability and prosperity in the region in the light of the countries' European perspective. The launching of the dialogue on visa liberalisation will open further prospects to peoples from the region. Within the Stabilisation and Association Process, the European Union is supporting the Western Balkan countries in developing their performance in the four priority areas of police and organised crime, integrated border management, judicial reform, and asylum and migration. The pace of reform in the Western Balkan countries is uneven and we therefore need to continue using the European perspective to drive the reform process forward in the four priority areas.
166. The **European Neighbourhood Policy (ENP)** provides the political framework for our cooperation with the "near abroad", i.e. our Mediterranean partners and the countries further to the East and Southeast. Our self-interest

in upgrading policies in these countries is self-evident – they are at the doorstep of the European Union. The ENP builds upon existing agreements between the European Union and the partner in question (Partnership and Cooperation Agreements or Association Agreements). The bilateral ENP Action Plans cover ambitious chapters on justice, freedom and security policy, thus giving the relationship a closeness which differs from cooperation with other third countries. The implementation of JHA reforms by ENP partners will also be vital for ensuring the success of the whole policy, which aims at enhancing the security of the European Union by exporting stability to their neighbours.

167. The European Union's proximity policy towards the **Mediterranean region** is governed by the comprehensive Euro-Mediterranean Partnership. The Mediterranean has a strategic importance for the European Union's stability and security. The regional dimension of the MEDA programme has proven particularly useful in the AFSJ, spreading a message of developing confidence in cooperation among the countries concerned on such sensitive issues as migration, justice and police. This should be developed further.
168. The European Union and the USA should cooperate bilaterally in order to secure visa-free travel for all Member States. Moreover, they should cooperate in relevant international fora in order to create an environment where travel is safe, secure, and expeditious for bona fide travellers. Modern technology will play a key role in delivering targeted and more secure controls and allow us to focus our border control resources on identified risks. Besides the areas of counter-terrorism and border security, current cooperation between the European Union and the US includes the fight against international crime, cybercrime, drug trafficking and trafficking in human beings. As to data protection, our common goals are clear: to protect our citizens' security by making sure law enforcement authorities have the information they need to do their work and to protect our citizens' fundamental rights and privacy. In the context of the ongoing work in the High Level Contact Group on Data Protection, the European Union should aim at concluding a binding agreement with the US on data protection, based on reciprocity. Consideration could further be given to a common transatlantic space with more sharing of relevant information and at the same time greater protection of personal data, expedited travel for bona fide passengers and more secure borders.
169. **Russia** is, together with the US, our main strategic partner in the field of justice, freedom and security. The framework for our cooperation with Russia is the EU-Russia Common Space of Freedom, Security and Justice which is very comprehensive, ranging from counter-terrorism to the fight against drug trafficking, from migration and asylum to judicial cooperation in criminal and civil matters. It is widely acknowledged that this is the best-functioning of the four Common Spaces with Russia.
170. **Africa** should remain a priority for enhanced dialogue and cooperation in the field of Justice and Home Affairs, covering a broad range of issues on the JHA agenda, *inter alia* migration, fight against terrorism, drugs and trafficking of human beings. The Joint EU-Africa Strategy and its Action Plan for the period 2008-2010 are the cornerstones of cooperation.

171. In addition to the priority geographical challenges identified above, it is important to address in the post-Hague Programme other challenges in the JHA area: **Latin America, Afghanistan, Iraq and its neighbouring countries, China and India.**
172. Given the increasing importance of JHA external relations, it is necessary to reflect on how to deal with these issues in the European Union's institutional framework in the future.



## **ANNEX**

### **Informal High Level Advisory Group on the Future of European Home Affairs Policy („The Future Group“)**

#### **Group Members**

**Jacques Barrot**, Vice-President of the European Commission responsible for Justice, Freedom and Security (since May 2008)

**Franco Frattini**, Vice-President of the European Commission responsible for Justice, Freedom and Security (until April 2008)

**Dr. Wolfgang Schäuble**, Minister of the Interior of the Federal Republic of Germany

**Dr. Rui Pereira**, Minister of Internal Administration of the Portuguese Republic

**Dragutin Mate**, Minister of the Interior of the Republic of Slovenia

**Michèle Alliot-Marie**, Minister of the Interior of the French Republic

**Brice Hortefeux**, Minister of Immigration of the French Republic

**Dr. Ivan Langer**, Minister of Interior of the Czech Republic

**Beatrice Ask**, Minister for Justice of the Kingdom of Sweden

**Tobias Billström**, Minister for Migration and Asylum Policy

## **Temporary Group Members (on a rotating basis)**

**Antonio Camacho Vizcaino**, Secretary of State for Security,  
Ministry of the Interior, Kingdom of Spain

**Patrick Dewael**, Minister of the Interior of the Kingdom of Belgium

**Dr. Judit Fazekas**, Secretary of State for EU Affairs,  
Ministry of Justice, Republic of Hungary

## **Observers**

**Baroness Patricia Scotland**, The Attorney General, The Rt Hon, The Baroness  
Scotland QC

**Gérard Deprez**, Chair of the Committee on Civil Liberties, Justice and Home Affairs  
of the European Parliament (since January 2008)

**Jean-Marie Cavada**, as Chair of the Committee on Civil Liberties, Justice and Home  
Affairs of the European Parliament (until January 2008)

**Ivan Bizjak**, Director General for Justice and Home Affairs, General Secretariat