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NOTE

from : the Presidency
to : COREPER/Council

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Subject : Conclusions of the Council on the Schengen evaluation of the Benelux countries

1. Introduction

The correct application by the Benelux countries of the Schengen acquis has been evaluated in accordance with the decision of the Executive Committee of 16 September 1998 (cf. SCH/Com-ex (98) 26 def.) and the note on the continuation of the work on Schengen evaluation and implementation; action programme and timetable, which was approved by the Council on 28 – 29 May 2001 (cf. 8968/01 SCH-EVAL 18 COMIX 378).

The evaluation has taken place in a very positive spirit of good disposition and transparency on the part of the Benelux authorities from the beginning of the evaluation exercise, that is, both in the replies given to the questionnaire and during the visits on the ground in the Benelux countries and in the Benelux Consulates abroad.

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2. Conclusions of the evaluation

The general conclusion of the evaluation is that the Benelux countries comply with the Schengen acquis in a sufficient and - for most parts - also a very thorough manner with only minor deficiencies. The evaluation also revealed that since the last evaluation of the Benelux countries in 1996 considerable progress has been made at the border crossing points in terms of infrastructure, equipment and personnel.

The evaluation committee have especially welcomed the following:

- Sea borders
 - Belgium and the Netherlands: The use of controls based on risk analysis in relation to cargo vessels.

- Air borders
 - Amsterdam Schiphol Airport and Brussels National Airport Zaventem: The use of targeted gate controls based on risk analysis.

- Visa
 - The Belgian Embassy in Kinshasa: The use in the visa application procedure of a visa-agent, whose main task is to detect false and falsified documents.

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3. Recommendations to the Benelux Countries

The specific evaluation reports on the visits concerning border crossing points, SIS/Sirene, data protection and the application of the Common Consular Instructions on Visas include detailed observations concerning the progress that has been made as well as the minor deficiencies and a number of recommendations for further improvement of the application of the Schengen acquis.

The most important observations and recommendations for an improvement in the implementation and application of the Schengen acquis in the Benelux countries are the following:

- Sea borders
 - Belgium and the Netherlands: The position of the Belgian and Dutch coastline attracts illegal migrants trying to get to the UK. It should be kept in mind that control in this respect is also a matter for the border control authorities.

- Air borders
 - Amsterdam Schiphol Airport, Rotterdam Airport and Luxembourg Airport: It should be ensured that the separation of extra- and intra-Schengen flows exclude persons from crossing and documents to be passed from one area to the other.
 - Amsterdam Schiphol Airport, Brussels National Airport Zaventem and Luxembourg Airport: The controls on crew members must comply with the requirements in the Common Manual.
 - Amsterdam Schiphol Airport: The legal basis for the – Benelux - authorisation allowing passengers to enter the Dutch territory for 72 hours and subsequently leaving the Benelux territory from either Belgium or Luxembourg should be examined in order to ensure that it is in accordance with the Schengen acquis.

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- Luxembourg Airport: The concept of border controls should be reviewed in order to take into consideration the possible threats from illegal immigration. This inter alia involves more emphasis on risk analysis, intelligence work, surveillance, co-operation, detection and checks. Furthermore, the number of staff was considered to be insufficient and should be increased.

- SIS/Sirene
 - Belgium, the Netherlands and Luxembourg: It is recommended to continuously consider to improve the security concerning unauthorised access to SIS data, e.g. by implementation of encryption or other data protection measures concerning communication networks and by implementation of uniform time-out functionalities.

 - Belgium and Luxembourg: To ensure the correctness of data and the speed by which new alerts are introduced in the SIS it is advisable to study the possibilities of creating further links between SIS and national databases.

 - The Netherlands: It is recommended to improve the speed of the introduction of new alerts in some geographically specified police areas.

- Data protection
 - It is of significant importance that the data protection authorities conduct inspections of the authorities responsible for the Schengen Information System at a regular basis. In this relation training of staff and adequate allocation of resources are key elements. It is recommended to take the appropriate measures to ensure a sufficient allocation of personnel in the Dutch and Belgium data Protection Agencies.

The Council requests the Benelux countries to report in writing in principle within six months, on the follow-up on the recommendations in the evaluation reports.

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4. General recommendations

The experiences gained from the evaluation visits to the Benelux countries combined with the experiences gained from previous evaluation visits have underlined the general impression that there is need for a continuous monitoring and improvement on the implementation and application of the Schengen Acquis.

In this regard the Council approves the following general recommendations:

- It is important that the continuous deployment of staff corresponds to the challenges, including risk analysis, met at specific border crossing points and that constant considering of technical support is made in order to facilitate controls. In this regard it should be considered to install electronic document readers at border crossing points with a substantial flow of passengers.
- There is a need to clarify the specific regulations on the control of the external borders (The Common Manual). Particular emphasis should be given to the regulations on stamping of documents, the use of flexigates, control of seamen and control of pleasure boats.
- The introduction of fast trains travelling from outside the Schengen area to one or more destinations within the Schengen area has created a new control situation. The need for common regulations on the control of such trains increases as plans for new and extended train routes are developed.
- The continuous development of the cooperation between consular posts is a deterrent factor in the fight against abuse of the visa system and should be prioritised.
