

COUNCIL COMMON POSITION (doc.10400/03)CFSP

on the International Criminal Court

THE COUNCIL OF THE EUROPEAN UNION:

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) The consolidation of the rule of law and respect for human rights, as well as the preservation of peace and the strengthening of international security, in conformity with the Charter of the United Nations and as provided for in Article 11 of the Treaty on European Union, are of fundamental importance to, and a priority for the Union.

(2) The Rome Statute of the International Criminal Court entered into force on 1 July 2002 and the Court is now fully functional.

(3) All Member States of the European Union have ratified the Rome Statute.

(4) The principles of the Rome Statute of the International Criminal Court, as well as those governing its functioning, are fully in line with the principles and objectives of the Union.

(5) The serious crimes within the jurisdiction of the Court are of concern to all Member States, which are determined to cooperate for the prevention of those crimes and for putting an end to the impunity of the perpetrators thereof.

(6) The principles and rules of international criminal law embodied in the Rome Statute should be taken into account in other international legal instruments.

(7) The Union is convinced that universal accession to the Rome Statute is essential for the full effectiveness of the International Criminal Court and, to that end, considers that initiatives to enhance the acceptance of the Statute are to be encouraged, provided they are consistent with the letter and spirit of the Statute.

(8) The implementation of the Rome Statute requires practical measures that the European Union and its Member States should fully support.

(9) The Action Plan which was, inter alia, called for by a Resolution on the Court approved by the European Parliament on 28 February 2002 to follow up Common Position 2001/443/CFSP of 11 June 2001 on the International Criminal Court was adopted on 15 May 2002 and may be adapted as appropriate.

(10) It is eminently important that the integrity of the Rome Statute be preserved.

(11) By its Conclusions of 30 September 2002 on the International Criminal Court the General Affairs and External Relations Council has developed a set of principles attached to those Conclusions to serve as guidelines for Member States when considering the necessity and scope of possible agreements or arrangements in responding to proposals regarding the conditions to surrender persons to the International Criminal Court.

(12) In the light of the above, Common Position 2001/443/CSFP should be updated and recast.

(13) This Common Position should be kept under review.

(14) The European Union considers the application of this Common Position by the acceding countries and the alignment with it by the associated countries Romania, Bulgaria and Turkey and by the EFTA countries important in order to maximise its impact,

HAS ADOPTED THIS COMMON POSITION:

#### Article 1

1. The International Criminal Court, for the purpose of preventing and curbing the commission of the serious crimes falling within its jurisdiction, is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as contributing to the preservation of peace and the strengthening of international security, in accordance with the purposes and principles of the Charter of the United Nations. 2. The objective of this Common Position is to support the effective functioning of the Court and to advance universal support for it by promoting the widest possible participation in the Rome Statute.

#### Article 2

1. In order to contribute to the objective of the widest possible participation in the Rome Statute, the European Union and its Member States shall make every effort to further this process by raising the issue of the widest possible ratification, acceptance, approval or accession to the Statute and the implementation of the Statute in negotiations or political dialogues with third States, groups of States or relevant regional organisations, whenever appropriate. 2. The Union and its Member States shall contribute to the world-wide participation in and implementation of the Statute also by other means, such as by adopting initiatives to promote the dissemination of the values, principles and provisions of the Statute and related instruments. In furtherance of the objectives of this Common Position, the Union shall cooperate as necessary with other interested States, international institutions, non-governmental organisations and other representatives of civil society. 3. The Member States shall share with all interested States their own experiences on the issues related to the implementation of the Statute and, when appropriate, provide other forms of support to that objective. They shall contribute, when requested, with technical and, where appropriate, financial assistance

to the legislative work needed for the participation in and implementation of the Statute by third countries. States considering to become party to the Statute or to cooperate with the Court shall be encouraged to inform the Union of difficulties encountered on that path. 4. In implementing this Article, the Union and its Member States shall coordinate political and technical support for the Court with regard to various States or groups of States. To that end, country-specific or region-specific strategies shall be developed and used where appropriate.

#### Article 3

In order to support the independence of the Court, the Union and its Member States shall, in particular:

- encourage States Parties to transfer promptly and in full their assessed contributions in accordance with the decisions taken by the Assembly of States Parties;
- make every effort towards the signature and ratification by Member States of the Agreement on the Privileges and Immunities of the Court as soon as possible and promote such signature and ratification by other States; and
- endeavour to support as appropriate the development of training and assistance for judges, prosecutors, officials and counsel in work related to the Court.

#### Article 4

The Council shall, where appropriate, coordinate measures by the European Union and Member States for the implementation of Articles 2 and 3.

#### Article 5

1. The Union and its Member States shall follow closely developments concerning effective cooperation with the Court in accordance with the Rome Statute. 2. In this context, they shall continue, as appropriate, to draw the attention of third States to the Council Conclusions of 30 September 2002 on the International Criminal Court and to the EU Guiding Principles annexed thereto, with regard to proposals for agreements or arrangements concerning conditions for the surrender of persons to the Court.

#### Article 6

The Council notes that the Commission intends to direct its action towards achieving the objectives and priorities of this Common Position, where appropriate by pertinent Community measures.

#### Article 7

1. Member States shall cooperate to ensure the smooth functioning of the Assembly of States Parties in all respects. 2. During negotiations in the Special Working Group established by the Assembly of States Parties to deal with the crime of aggression, Member States shall contribute to the finalisation of the work under way and shall support solutions which are consistent with the letter and the spirit of the Rome Statute and of the United Nations Charter.

Article 8

The Council shall review this Common Position as appropriate.

Article 9

1. The Council notes that Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia intend to apply this Common Position as from the date of its adoption.
2. The Presidency will request the associated countries Romania, Bulgaria and Turkey as well as the EFTA countries to align with this Common Position.

Article 10

Common Position 2001/443/CSFP is hereby repealed and replaced by this Common Position. References to the repealed Common Position 2001/443/CSFP shall be construed as being made this Common Position.

Article 11

This Common Position shall take effect from the date of its adoption.

Article 12

This Common Position shall be published in the Official Journal of the European Union.