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REV 2

LIMITE

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NOTE

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from : Coreper

to : Council

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**Subject: Draft Joint Action establishing a mechanism for collective evaluation of the enactment, application and effective implementation by applicant countries of the acquis of the European Union in the field of Justice and Home Affairs**

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Delegations will find attached the draft Joint Action establishing a mechanism for collective evaluation as it stands after its examination by Coreper.

Coreper invites the Council to agree on this draft Joint Action subject to examination by the Legal Linguistic Experts.

**DRAFT JOINT ACTION <sup>(1)</sup>**

**of**

**adopted by the Council on the basis of Article K.3  
of the Treaty on European Union,  
establishing a mechanism for collective evaluation of the enactment,  
application and effective implementation by applicant countries  
of the acquis of the European Union in the field of Justice and Home Affairs**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article K.3(2)(b) thereof,

Having regard to the conclusions of the European Council at Copenhagen in 1993 and Luxembourg in 1997,

Having regard to the conclusions of the meeting of the Council at Brussels on 19 March 1998,

Whereas it is desirable to establish a mechanism which enables experts from the Member States and the Commission to evaluate collectively within the framework of the Council the enactment, application and effective implementation by the applicant countries of the acquis of the Union in the field of Justice and Home Affairs,

Whereas these evaluations should be taken into account by the Commission in the adjustment of the priorities and objectives of the Accession Partnerships and within the established structures of the European Union in the context of future discussions on enlargement,

HAS ADOPTED THIS JOINT ACTION:

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<sup>(1)</sup> Parliamentary reservation from DK.

## Article 1

### Objective

1. Without prejudice to the competence of the Community or to the established structures for determining the position of the Member States in accession negotiations, a mechanism for collective evaluation of the enactment, application and effective implementation by the States which are candidates for accession to the European Union ("the candidate countries") of the *acquis* of the Union within the field of Justice and Home Affairs shall be established in accordance with the provisions set out below.
2. Each Member State shall ensure that its national authorities cooperate fully in implementing the mechanism for collective evaluation established under this Joint Action ("the evaluation mechanism").

## Article 2

### Group of Experts

1. A group of experts, to be established in accordance with the Council's rules of procedure under the supervision of the Committee of Permanent Representatives of the Member States (Coreper), shall have the task of preparing and keeping up-to-date collective evaluations of the situation in the candidate countries on the enactment, application and effective implementation of the *acquis* of the Union in the field of Justice and Home Affairs <sup>(1)</sup>.
2. One or more Member States, in close association with the Commission, may give particular assistance in preparing and maintaining for a particular candidate country comprehensive reports which would form the basis of such evaluations, taking account of information made available under Article 3.
3. The group shall avoid duplication of work already undertaken and overlap with other activities undertaken by the Union in this field.

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<sup>(1)</sup> The Secretary General of the Council draws Coreper's attention on the possible need to reinforce the staff of DG-H with the secondment of additional national experts. This will need be examined with a view to taking a decision as appropriate in due course.

## Article 3

### Compilation of Information

1. All relevant material relating to the enactment, application and effective implementation by the candidate countries of the acquis of the Union in the field of Justice and Home Affairs shall be made available to the group of experts by the Member States and the Commission to enable the group to prepare and maintain collective evaluations of the situation in each candidate country and an assessment of possible problem areas.
2. These evaluations shall as a first step draw in particular on:
  - information provided individually and collectively by Member States based on their direct experience of working with the candidate countries, including information available within Schengen;
  - reports, as appropriate, from Member States' Embassies and Commission delegations in the candidate countries, on the basis, where necessary, of a questionnaire to be prepared by the group;
  - information available to the Commission through its role in the overall process of accession, including reports from missions conducted in the framework of the PHARE programme;
  - reports of the Council of Europe on the implementation of the Council of Europe Conventions and recommendations, or by any other sources which are deemed to be relevant with regard to the content of the acquis;
3. If additional information is considered necessary, ad hoc teams of representatives and experts of Member States and the Commission shall be formed to carry out further missions on specific aspects, without overburdening the candidate countries. The decision whether to establish such missions and their composition, timing and terms of reference will be decided by the Council, acting by qualified majority, on advice from the group of experts, in close cooperation with the Commission. <sup>(1)</sup>

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<sup>(1)</sup> The following declaration will be inserted in the minutes of the Council: Council declaration in respect of Article 3.3: Obtaining further information by additional missions will normally be achieved in accordance with the separate procedures of the Community financing programmes such as PHARE. It is envisaged that missions under Article 3.3 will only be formed if necessary. On this basis, participating Member States will bear their own expenses, unless otherwise agreed by the Council unanimously.

## Article 4

### **Progress and Results of the Evaluation Mechanism**

1. The group of experts shall, through the Committee of Permanent Representatives of the Member States (Coreper) and in close cooperation with the Committee established under Article K.4 of the Treaty on European Union and with other Council bodies involved in the enlargement process, report to the Council the progress and results of the evaluations. The Group shall also keep other relevant Council bodies informed of its work. <sup>(1)</sup>
2. The Commission is invited to take account of the collective evaluations in its proposals for significant adjustment of the priorities and objectives of the accession partnerships, which shall be submitted to the Council for decision in accordance with Article 2 of Regulation (EC) No. 622/98. They shall also be taken into consideration within the established structures of the European Union in the context of future discussions on enlargement.

## Article 5

### **Review of the Evaluation Mechanism**

No later than one year after the entry into force of this Joint Action, the Council shall examine the operation and scope of the evaluation mechanism and shall, if appropriate, make adjustments to it.

## Article 6

### **Entry into Force**

This Joint Action shall enter into force on the day of its publication in the Official Journal.

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<sup>(1)</sup> Reservation from A. It would consider the possibility of making a declaration affirming the importance of involving Third Pillar bodies in the evaluation process.

Article 7

Publication in the Official Journal

This Joint Action shall be published in the Official Journal.

Done at Brussels, ..... 1998

For the Council

The President

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