EUROPEAN UNION
THE COUNCIL

Brussels, 22 September 1994 (30.09)
(OR. d)

9521/94

RESTREINT

JUSTPEN 57

NOTE

from: Presidency

to : Working Party on Extradition

Subject: Convention to improve extradition between Member States of the European Union

Convention to improve extradition between Member States of the European Union

Article 1

Principle

1. The provisions of this Convention shall supplement the European Convention on Extradition of 13 September 1957 as well as, in relations between the contracting member states of the Benelux Economic Union, the first chapter of the Benelux Treaty of 17 June 1962 on Extradition and on Mutual Assistance in Criminal Matters, as amended by the Protocol of 11 May 1974, to facilitate the application of the said Conventions.

2. Paragraph 1 shall not affect the application of more favourable provisions in the bilateral and multilateral agreements in force between certain Member States.

Articles 2 – 6

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Article 7

A wanted person sought on the basis of an Interpol investigation or another report in a computerized search system for the purpose of extradition may, if apprehended in the requested State, be transferred with his or her consent to the requested State under the simplified procedure, subject to the following provisions, where the search is equivalent

to a request for provisional arrest within the meaning of Article 16 of the European Convention on Extradition or Article 15 of the Benelux Treaty on Extradition.

Article 8

The Member States undertake to surrender to each other under the simplified procedure wanted persons within the meaning of Article 7, where the following conditions obtain:

(1) the individual formally consents to his or her surrender in accordance with the provisions of Article 11 of this Convention;

(2) the competent authority in the requested state consents to the surrender.

Article 9

A person surrendered on the basis of Article 7 of this Convention may be prosecuted, judged and detained for offences other than those specified in the request.

Article 10

1. Where a person wanted for the purpose of extradition is arrested on the territory of another Member State, the judicial authority competent under national law shall inform the person of the request relating to him or her, and of the possibility of his or her consenting to surrender to the requesting State under the simplified procedure, together with the consequences of this choice.

2. The following data from the requesting State shall be regarded as adequate for the information of the arrested person:

(a) the authority requesting the arrest;
(b) the existence of an arrest warrant or other document having the same legal effect or a final judgment;
(c) the nature and legal categorization of the offence;
(d) a description of the circumstances in which the offence was committed, including the time, place and nature of the perpetration;
(e) insofar as possible, the consequences of the offence.

3. Upon deposit of its instrument of ratification, acceptance or accession, each Contracting Party may state that paragraph 2 will only be applied subject to the principles of its constitution and the basic features of its legislation.

Article 11

1. Consent shall be given before a competent judicial authority of the requested State, in compliance with the law of that State. The person arrested shall have the right to legal counsel.

2. Each Member State shall take the necessary measures to ensure that the person giving consent does so voluntarily and in full knowledge of the consequences.

3. Consent, which cannot be revoked, shall be recorded; the recording procedure shall be in accordance with the law of the requested State.

Article 12

1. Surrender shall be carried out directly between the competent authorities of the requesting and the requested State.

2. Surrender shall be instigated without delay following the fulfilment of the conditions set out in Article 2, and at the latest on the fortieth day following provisional arrest. The first sentence shall not apply where the requested State has entered a reservation under Article 10(3).

3. Upon deposit of its instrument of ratification, acceptance or accession, each Member State shall state in a declaration which authorities are empowered as far as it is concerned to carry out surrender in compliance with this Convention.