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OUTCOME OF PROCEEDINGS

of : Steering Group II

on : 3/4 November 1994

Steering Group II met on 3/4 November 1994 in Brussels. The results of this meeting may be summarized as follows.

1. ADOPTION OF THE AGENDA

The Group adopted the agenda set out in telex No. 4046, it being agreed that a new point 11 would be inserted : "Combatting fraud (customs) - doc. 10092/1/94 ENFOCUSTOM 37".

2. INTERIM REPORT ON RACISM AND XENOPHOBIA

(docs 9601/94 ENFOPOL 124 and 10280/94 ENFOPOL 147)

The Group :

- agreed on amendments to document 9601/94, which are contained in the Addendum 1 to that document ;
- suggested to submit document 10280/94 to the K.4 Committee, subject linguistic reservations which the delegations may formulate after having examined the document in their respective languages.

3. RISK ANALYSIS

The Group took note of the Presidency's summary document relating to the internal and external terrorist threat and assessed the possibilities of terrorist threats to the Member States of the Union.

4. REPORT ON MEASURES TO COMBAT DRUG TRAFFICKING AND ORGANIZED CRIME

(doc. 9931/1/94 ENFOPOL 134 REV 1)

In particular :

- **position on the Commission's action plan to combat drugs**
(doc. 9870/1/94 ENFOPOL 128 REV 1)
- **report on action against money laundering**
(doc. 9638/1/94 ENFOPOL 126 REV 1)
- **compulsory introduction of immobilizers for motor vehicles**
(doc. 9125/1/94 ENFOPOL 112 REV 1)

- A. The results of the Group's deliberations on document 9931/2/94 ENFOPOL 134 REV 2, is in document 9931/3/94 ENFOPOL 134 REV 3. The French delegation entered a reservation on paragraph 2.5.2 of the report.

During the discussions on this report, the Belgian delegation observed that the new cooperation structure provided for by the TEU, necessitates a reconsideration of the method of forerunner countries. The Presidency, assisted by the Council Secretariat, should, as soon as possible, take over functions performed by these countries.

The Presidency pointed out that, in present circumstances, certain Member States could prepare the work in specific fields, under the auspices of the chair of a working party.

- B. 1. The Group invited the Working Party on Drugs and Organized Crime to elaborate at its next meeting, a final report on the Commission's communication on the fight against drugs. It welcomed document 9731/1/94 ENFOCUSTOM 29 REV 1 drawn up by the Customs Cooperation Working Party.

2. The Group agreed that paragraph 2.6.1 of document 9931/3/94 EUROPOL 134 REV 3 contains the information on money laundering to be submitted to the Council.
3. The Group amended document 9125/1/94 ENFOPOL 112 REV 1 on the compulsory introduction of immobilizers for motor vehicles. The revised text is in document 9125/2/94 ENFOPOL 112 REV 2.

Under this agenda point the Group also discussed the situation report on organized crime in the European Union in 1992. In the light of amendments presented by the Italian delegation, document 10166/2/94 ENFOPOL 144 REV 2 has been elaborated.

5. **NUCLEAR CRIME : Implementation of the decision taken by the Council of the European Union (General Affairs) on 4/5 October 1994 in Luxembourg**

- **Reports from the Working Parties "Drugs and Organized Crime" and "Customs Cooperation"** (docs 10253/94 ENFOCUSTOM 19 and 10167/94 ENFOPOL 145)

The Group decided to submit document 10602/94, containing the results of the above Working Parties, to the K.4 Committee, Steering Group III's contribution taking the form of a special annex to this document.

6. **EUROPOL**

A. **Draft Convention on the establishment of Europol**

(doc. 10342/94 EUROPOL 112)

On the basis of the Presidency text in document 10342/94 EUROPOL 112, the Group discussed the major outstanding problems, i.e. :

- the subject's rights of information and legal recourse ;
- the architecture of the system and the role of the liaison officers.

1. Subject's right of information and legal recourse

The Presidency presented its approach according to which Europol should provide information and should be the opposing party in proceedings.

With regard to the right of information, several delegations, in particular the Netherlands and Irish delegations, supported the Presidency's proposal. Other delegations, such as the French delegation, emphasized that, where national data are concerned, only national authorities should provide information. A separate system would have to be developed for new data.

Europol cannot be compared to Schengen because the nature of the data is different.

Some delegations (e.g. the Belgian and Danish ones) remarked that in their country no direct access is possible. The Belgian delegation wondered whether a solution could not be found along the following lines :

- Europol will provide information on all data except national data ;
- where national data are concerned, Europol has to obtain the permission of the national authorities concerned in order to provide information.

The Netherlands delegation pointed out that in bilateral exchanges, the receiving State provides information on data given by another country according to its national law.

The Presidency agreed to prepare a compromise solution for the meeting of the Working Party, on the basis of the Belgian delegation's suggestions.

2. Architecture of the system

The Presidency, supported in particular by the Netherlands delegation, spoke out in favour of a system in which liaison officers would only under certain conditions have access to analyzed data, in particular for reasons of efficiency and data protection. The Netherlands delegation stressed that unlimited access would restrict the willingness of Member States to transmit sensitive data.

The French delegation, supported by the Italian delegation, was in favour of a system in which liaison officers would have unlimited access to all data. The cooperation provided for in Article K.1.9 is of an intergovernmental nature and based on mutual trust. Moreover, in course of time liaison officers might become interested in an ongoing data collection.

The Belgian delegation suggested making a distinction between proactive and reactive data. Liaison officers should have unlimited access to proactive data, whereas their access to reactive data should be limited (e.g. index should be used).

The Presidency concluded that views on the system's architecture and the role of liaison officers remained opposed and that a solution should be worked out, preferably at political level.

B. EDU/Europol

The Group discussed the nomination of coordinators for EDU/Europol on the basis of options presented by the Presidency, and decided to transmit its orientations to the K.4 Committee (cf. doc. 10587/1/94 EUROPOL 115 REV 1).

7. POLICE COOPERATION

- **Cooperation in the field of public order**
(doc. 9600/94 ENFOPOL 123)
- **Scientific and technical research**
(docs 8740/94 ENFOPOL 95 and 8741/94 ENFOPOL 96)
- **Cooperation with the Central and East European countries**
(docs 8742/94 ENFOPOL 97 and 9438/94 ENFOPOL 121)
- **Training and continuing training for police officers**
(doc. 8743/94 ENFOPOL 98 + COR 1)

The Group agreed on the subjects contained in the above mentioned documents.

As concerns **Scientific and technical research**, the Police Cooperation Working Party was charged to report, in due course, on the use of the collected information.

Where **Training** was concerned, one delegation (NL) considered that, in the future, attention should focus on the substance of the training rather than on questions of the profile of requirements.

8. SAFEGUARDING OF LEGAL INTERCEPTION OF TELECOMMUNICATIONS

- **Draft Council Resolution on the proposed international requirements for the legal interception of communications** (doc. 9898/94 ENFOPOL 132)
- **Discussion of procedure for a Memorandum of Understanding with third countries in parallel with the proposed Council Resolution** (doc. 9897/94 ENFOPOL 131)

As concerns the **Resolution**, the Group agreed on the text which is contained in document 10571/94 ENFOPOL 150.

Regarding the **Memorandum of Understanding**, the Group agreed on the text in document 9897/94 ENFOPOL 131. The procedure for the signing of this Memorandum by the Ministers will be proposed by the Presidency at a later stage.

9. IMPLEMENTATION OF THE BERLIN DECLARATION

- **Proposals from the Working Parties on Drugs and Organized Crime and on Police Cooperation** (docs 8990/3/94 ENFOPOL 107 REV 3 and 9533/94 CK4 72)

The Group agreed to forward document 10597/94 ENFOPOL 152 to the K.4 Committee.

10. COOPERATION BETWEEN THE EU, THE USA AND CANADA IN THE FIELDS OF JUSTICE AND HOME AFFAIRS (docs 7999/94 JAI 25 and 9580/94 CK4 73)

Steering Group II decided :

- in accordance with the decision taken by the K.4 Committee at its meeting on 21/22 September 1994, to call upon the Working Parties "Drugs & Organized Crime" and "Customs Cooperation" :
 - = to examine the US/Canadian proposals for technical cooperation (cf. doc. 7999/94 JAI 25) with a view to seeking effective international solutions to international crime ;
 - = to put forward proposals for future cooperation with the U.S. and Canada, and
 - = to submit a report on these matters at the next meeting of the Group ;
- to consult Steering Groups I and III on the proposals in document 7999/94 JAI 25, where they relate to the areas of responsibility of those Groups.

In the meantime, the Presidency will hold exploratory talks with the U.S. and Canadian delegations on this matter.

11. COMBATTING FRAUD (CUSTOMS) (doc. 10092/1/94 ENFOCUSTOM 37 REV 1)

The text agreed by the Group is set out in document 10092/2/94 ENFOCUSTOM 37 REV 2.

12. OTHER BUSINESS

The Netherlands delegation drew the attention of the acceding countries to the conclusions of the Terrorism Working Party concerning communications and SAGEM equipments (see doc. 10133/94 ENFOPOL 142).