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**SEMDOC**

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**NOTE**

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from: Presidency

to : K.4 Committee

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Subject: External relations in the framework of the Third Pillar

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**I. INTRODUCTION**

- A. At the K.4 Committee meeting on 1 April 1996, the Presidency announced that a note, prepared together with the Commission departments taking stock of European Union relations with third countries, apart from those applying for accession, and suggesting certain elements of a global strategy, would shortly be forwarded to the Committee.
- B. An overall view and strategy for relations with third countries and international organizations have become necessary because the subjects covered by Title VI, especially the uncontrolled flood of immigration, terrorism, organized crime and drug trafficking have, because of their seriousness, become subjects of increasing concern in international relations.

This note, drawn up under the Presidency's responsibility, paints a picture of the forms and frameworks of existing or developing contacts and relations with third countries. On the basis of these elements and the availability of new resources for analysis and financing, a more systematic approach will be proposed, supplementing and adding detail to that already contained in 11608/94 JAI 72, 5121/1/95 JAI 4 REV 1 and 5376/95 JAI 7 (relations with third countries).

## **II. RELATIONS WITH THIRD COUNTRIES AND DEFENCE OF COMMON POSITIONS WITHIN INTERNATIONAL ORGANIZATIONS**

### **A. Relations with third countries**

- methods and progress to date

The principles underlying relations between the Title VI bodies and third countries have been governed by the texts in 5121/1/95 JAI 4 REV I and 5376/95 JAI 7, adopted by the March 1995 Council meeting. Their implementation is set out in 5970/95 JAI 12 and 6215/95 CRS/CRP 12 JAI 14 EXT 2. The contact programmes of the Spanish and Italian Presidencies were contained in 9101/95 JAI 32 and 12982/95 JAI 63.

The basic philosophy was to remove from the agendas for ministerial meetings matters relating to countries which were not applicants for accession; instead, exchanges would take place at the appropriate level on subjects to which the European Union attributes priority.

Since January 1995, ministerial meetings have taken place with the United States and Canada (June 1995), Morocco (June and September 1995), Switzerland and Norway (September 1995) and the countries of the Andean Pact (September 1995).

In accordance with the principles set out in the above documents, the Presidency, acting in theory through the intermediary of the General Secretariat of the Council and in close association with the Commission, is responsible for contacts with third countries. Contacts of this kind have taken place with the delegations of the United States, Canada, Morocco and Bulgaria.

### **B. Defence of common positions within international organizations (Application of Article 5 of the Treaty on European Union)**

- A. The subjects covered by Title VI are addressed in a number of international organizations and informal bodies. The following is a non-exhaustive list of such international organizations:

- Schengen
- UNHCR
- Council of Europe
- UNDCP
- World Customs Organization
- The Hague Conference on Private International Law
- UN Commission on Crime Prevention and Criminal Justice
- Interpol
- Budapest Group
- Intergovernmental Consultation (IGC)
- Dublin Group
- Pompidou Group
- OECD/GAFI
- CIEC

The procedures to be followed are laid down in 8825/94 CK4 57. The principles set out in that document were reaffirmed at the meeting of the K.4 Committee on 1 April 1996 (see 6218/96 JAI 24). The latter document lays down that:

- a list of international meetings on subjects which are likely to cover Title VI of the Treaty on European Union will henceforth be submitted to the K.4 Committee;
- it is for the K.4 Committee to determine:
  - (a) whether the object of the conferences is a matter of common interest within the meaning of Article K.1 of Title VI of the TEU;
  - (b) whether common positions should be worked out or whether the flexible procedure for establishing a coordinated approach provided for in 8225/94 CK 4 57 should be followed;
  - (c) whether cooperation should be forthcoming for the drafting of any speeches or statements by the Union at these conferences;
- moreover, the K.4 Committee will have to:
  - (a) invite the Member States and the Commission to communicate any draft Resolutions to each other;
  - (b) determine the practical arrangements for coordinating the Member States' positions.

### III. JUSTICE AND HOME AFFAIRS COOPERATION WITH THIRD COUNTRIES OR GROUPS OF THIRD COUNTRIES

#### A. Existing cooperation agreements and frameworks

Cooperation clauses on justice and home affairs matters are contained in the agreements with Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Jordan, Lebanon, Syria, Tunisia, Turkey, the Andean Group, Argentina, Brazil, Paraguay, Uruguay, India, Korea, Nepal, Sri Lanka and Vietnam (see 7703/95 JAI 17).

In addition, there are Title VI clauses in relations with groups of countries with which the Union/the Community has a particular and institutionalized link, such as the Rio Group, the San José Group, the Andean Community and Mercosur.

Specific, often new forms of cooperation with third countries have recently been created in the areas of the Third Pillar, either being part of a global approach covering several Pillars or being specific to the Third Pillar.

#### 1. Transatlantic dialogue

- Joint EU/United States action plan

In the new transatlantic action plan and the joint EU/United States action plan, an important part is devoted to subjects covered by Title VI.

A horizontal Working Party has been set up which is monitoring the implementation of the plan. A Committee of senior officials prepares for the half-yearly meetings of the Presidents of the United States, the Commission and the Council.

The K.4 Committee and the other bodies of the Third Pillar regularly reexamine the implementation of the plan. Cooperation covers all the subjects of Title VI. Joint seminars have either already been held (for example on terrorism) or are planned (for example on new forms of crime, police cooperation, detection of counterfeit documents, etc).

## 2. Euro-Mediterranean partnership

An important part of the Barcelona Declaration and its accompanying work programme is devoted to migration, notably clandestine immigration, terrorism, drug trafficking and organized crime.

A senior officials' "Euro-Mediterranean Committee of the Barcelona process", composed of the Troika and one representative from each Mediterranean partner State, holds periodic meetings to prepare the meeting of Foreign Ministers and evaluate the follow-up to the Barcelona process. This Committee met on 11 and 12 April 1996.

The first meeting under the Third Pillar will be held on 11 and 12 June 1996 at Taormina (Sicily). The following subjects will be examined at that meeting:

- state of organized crime
- drugs
- clandestine immigration
- stolen vehicles
- illegal trade in toxic waste.

## 3. Norway/Switzerland

The Council meeting on 6 March 1995 agreed in the framework of EEA cooperation, that in the first instance it would be practical for the contacts to take place with the chairmen of Steering Groups I and II. These meetings took place under the French Presidency.

## 4. Morocco

The Association Agreement with Morocco contains clauses on drugs, money laundering and illegal immigration.

Regular contacts with Morocco take place at Presidency level, assisted by the General Secretariat.

## 5. Andean Community

The Andean countries constitute an example of cooperation in a specific area. A joint communication was adopted in September 1995 by the Troika of the Union's Ministers for Justice and the Interior and the Ministers of the Andean Group responsible for combating drugs.

The first meeting of senior officials took place in Rome on 11 March 1996 (see 5863/96 ENFOPOL 60). Actions were defined in the area of information exchange, direct and effective contacts, training and the development of inter-regional cooperation. Another meeting will take place before March 1997.

Preparations for that meeting took place at two preparatory meetings between the Presidency, the Commission and the Andean countries. The delegations of those countries had been invited to provide information on the situation (production, consumption, trafficking) and on legislative and operational measures to combat drugs.

## 6. Turkey

On 30 October 1995 the Association Council, in the framework of institutional cooperation, decided on the specific arrangements which would become effective when the Customs Union came into force.

Periodic meetings are planned at the level of Justice and Interior Ministers and the K.4 Committee. To date, this arrangement has not yet been implemented.

## 7. Russia

In November 1995 the Council finalized a strategy for future relations with Russia (see 11636/95). The following is stipulated in paragraph 7 of that document:

*"The European Union should foster cooperation in matters connected with Justice and Home Affairs in promoting the objectives of the Partnership and Cooperation Agreement".*

After written consultation of the Members of the K.4 Committee, followed by an examination by the JHA Counsellors, it was proposed that the following text be inserted in the action plan with Russia (see 6840/96 CK4 9 and 6440/96 NIS 48 PESC 99 CK4 10):

*"Cooperation in the field of Justice and Home Affairs*

- Action to combat organized crime, particularly drug-related crime, including money laundering and action to combat terrorism. Cooperation to prevent the diversion of chemical precursors. Illegal economic activities, including corruption, counterfeiting and illegal transactions in various goods should also be covered. Cooperation could take the form of regular exchanges of information, having due regard to national and international legislation on data protection, the setting up of a network of contact points and participation in seminars.*
- Action to combat illegal immigration and cooperation on asylum and readmission policy. Priority in this context should be given to preparation and follow-up of the Regional Conference which is to take place in Geneva in May 1996 concerning the problem of refugees and displaced persons in the CIS countries.*
- Cooperation on mutual judicial assistance, in particular by establishing a network of contact points.*
- In putting cooperation in these areas into effect, any duplication of Council of Europe initiatives will be avoided."*

[This text was entered for adoption on the agenda of the General Affairs Council on 13 and 14 May 1996.]

## **8. Asia**

At the close of the first meeting between Asia and Europe (ASER), held in Bangkok on 1 and 2 March 1996, the Presidency made a declaration which partly refers to Title VI subjects. The participants made precise plans for developing closer cooperation between the customs authorities of Asia and Europe regarding customs procedures and the fight against drug trafficking. The Third Pillar bodies have not yet examined this file.

## 9. China

At its meeting on 4 December 1995 the Council approved conclusions on the Commission Communication to the Council on a long-term policy for China-Europe relations (see 12422/95). The conclusions stipulate that:

*"The EU would be interested in substantial cooperation in the areas of illicit traffic of narcotics, laundering of the proceeds of the drugs trade, measures to prevent and reduce drug abuse, and against international crime and illegal immigration. The Union will continue to examine this matter at a later stage. Cooperation to facilitate the readmission of illegal immigrants is also desirable."*

The Third Pillar bodies have not yet examined the procedures for implementing this paragraph.

### **B. Frameworks for cooperation and agreements being negotiated**

#### **1. Draft Joint EU-Canada Action Plan**

At its meeting on 25 and 26 March 1996 the Council took note of the Commission communication on relations between the European Union and Canada. It called upon the Presidency and the Commission to embark on discussions with the Canadian Government with a view to drawing up an EU-Canada political declaration and a Joint Action Plan.

The competent fora are finalizing the declaration and the Action Plan. A draft, which is set out in 6783/96 CDN 4, was discussed on 5, 6 and 7 May by the representatives of the European Union and Canada with the aim of adopting it at a European Union/Canada Summit Meeting at the end of June.

The part of the Action Plan concerning the Third Pillar covers:

- illegal immigration (including trafficking of human beings) and asylum;
- international organized crime, terrorism, drug trafficking, money laundering and computer crime;
- judicial cooperation.

This item appears on the agenda for the K.4 Committee's meeting on 13 May 1996.

## **2. Latin America including the Caribbean**

At its meeting on 15 and 16 December 1995 in Madrid the European Council had regarded it as a priority that a cooperation mechanism be established between the European Union and Latin America, including the Caribbean, to fight drug trafficking. A working party was set up and is currently examining proposals for action for the two regions and the abovementioned mechanism.

## **3. Summit of the Baltic Sea States**

On 3 and 4 May 1996 Visby was the venue for the summit of the Heads of Government of Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, the Russian Federation and Sweden with the Presidency of the European Council and the President of the Commission also in attendance.

At that meeting an action programme was adopted in which provision is made for the strengthening of cooperation between the different law-enforcement authorities. For this purpose a task force of personal representatives of the Heads of State was set up. It is due to submit proposals to combat organized crime at the next summit in 1997.

## **IV. MAJOR ISSUES**

Since the end of 1995 new forms of cooperation in the fields covered by Title VI have been added to those in force (see 7703/95 JAI 17).

Cooperation took on a new dimension following the general initiatives proposed by the Spanish Presidency (Transatlantic Dialogue and Euro-Mediterranean Conference) and the specific initiatives proposed by the Italian Presidency (meeting on 11 March 1996 with the Andean Pact countries, scheduled meeting in Taormina and mission by the Steering Group I Troika to the United States from 14 to 19 April 1996).

A. In its relations with third countries, the Third Pillar has developed a series of methods, instruments and spheres of activity, the most important of which are as follows:

1. in general

- exchange of information by means of
  - = contact points
  - = reports evaluating the situation based on common parameters
  - = participation in seminars (with or without Community funding)
  - = liaison officers

2. in particular

- asylum/immigration
  - = combating illegal immigration
  - = approximation of laws
  - = frontier controls
  - = practical and administrative assistance
  - = false documents
  - = readmission
- police cooperation
  - = training
  - = technical assistance
  - = money laundering
  - = coordinated controls
  - = common measures against new forms of crime
  - = precursors
  - = alternative development

- judicial cooperation

- = accession and implementation of the relevant international texts
- = technical assistance, in particular in the implementation of these texts
- = training
- = mutual legal assistance
- = extradition.

In the various areas mentioned above, fora and bodies have been established within the Union, which could be very useful in relations with third countries, notably:

- the EDU/Europol
- the European Monitoring Centre for Drugs and Drug Addiction
- CIREA/CIREFI.

The Union's activities should not duplicate those of existing international bodies, such as the Council of Europe, the UNDCP and the UNHCR.

- B.** Two questions arise at this stage. The first concerns whether all countries or groups of countries with which cooperation in the field of justice and home affairs is of interest to the Union are covered by existing arrangements. It seems that a positive reply could be given to this question.

The second question is whether the various proposed instruments satisfy requirements. It is too early to give a reply to this question since it has not yet been possible to exploit fully the various cooperation instruments, most agreements having been concluded only recently.

However, it can already be considered that the adoption of work programmes, covering at least a one-year period for a particular region or problem, would make it possible to increase the effectiveness of the Union's external activities in matters of justice and home affairs.

- C. In order to make maximum use of available resources and data, it is proposed that the data collated in one cooperative framework may, whenever possible, be used in another framework as well.

As for the preparation of specific meetings, the Presidency feels that the method used for the meeting with the Andean countries on 11 March 1996 in Rome (i.e. Presidency/Commission or Troika preparatory meetings with third countries in order to obtain information for the drafting of the final conclusions) may be repeated in connection with other agreements.

The flexible procedural arrangements currently in force for contacts with third countries seem to be satisfactory and need not be changed. However, now that the legal frameworks and the instruments of cooperation with the most important countries for the Union have been established, priorities in terms of substance should be defined in the light of the seriousness of the problems, the interest to the Union (multiannual plan) and the resources available.

- D. As for the defence of positions in international organizations, a problem arises with regard to international fora where all Member States are not represented (in certain instances the Presidency of the Council is not present), e.g. the G7 (P8) and the IGC. In this case the Presidency should be invited (e.g. the Irish Presidency for the G7 (P8) Working Party on Drugs and Organized Crime). The presence of the General Secretariat of the Council, if possible in the Presidency delegation, could ensure some degree of continuity, ensure that the Union's subordinate bodies are kept informed and facilitate the often useful on-the-spot coordination. Likewise, the presence of the General Secretariat of the Council as an observer in proceedings of the Schengen Central Group is desirable.

## VI. RECOMMENDATIONS

The Council is asked to agree to the following approach:

*"The Council considers that*

- at the moment, having regard to the need for cooperation in asylum, immigration, police, customs and judicial cooperation matters, the appropriate instruments exist for all parts of the world;*
- it is a matter of consolidating achievements and optimizing the proposed instruments of cooperation.*

*Each year, at its first meeting, the Council will hold a policy debate on the policy to be followed and the priorities to be defined in contacts between the Union and third countries. As a contribution to this debate – on the initiative of the Presidency and the Commission (in particular as regards cooperation agreements) – the K.4 Committee will submit a progress report on the Union's relations with third countries during the previous year, including an assessment of the effectiveness of the projects envisaged.*

*This report will be based on an analysis of the international situation regarding asylum, immigration, drugs and organized crime, notably on information obtained by CIREA, CIREFI, EDU and EDMC.*

*At the close of the debate the Council will adopt guidelines for its external activities during the coming year. The Council will determine on that occasion whether and to what extent certain activities can be financed by the Community budget. The implementation of these guidelines will be examined during the second half of the year.*

*On the subject of international meetings, the Council takes the view that the guidelines contained in 6218/96 JAI 24 and 8225/94 CK4 57 must be fully observed. The Union must be appropriately represented in the fora at which the subject areas set out in Article K.1 are examined.*

*The Council considers that the general rules concerning contacts with third countries (see 6215/95 CRS/CRP 12 JAI 14 EXT 2 and 5970/95 JAI 12) need not be amended at present. However, the present recommendations constitute a reference framework which Presidencies have to follow when drawing up their programmes."*

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