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NOTE

from : United Kingdom delegation

to : Working Party on Mutual Assistance in Criminal Matters

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Subject: Lawful interception of satellite personal communications systems

Paragraph 23 of the paper on the preparatory meeting on interception in The Hague on 25 and 26 November 1996 reads as follows:

"The UK has provided an indication of the procedures and issues which could be included in an international instrument. It assumes that the approach under (c) is accepted; that the consent of the country where the ground station is located, is necessary".

Delegations will find enclosed the United Kingdom delegation's indication of the procedures and issues which could be included in a Convention or associated national legislation. This indication is not intended as a draft Convention.

LAWFUL INTERCEPTION OF SATELLITE PERSONAL COMMUNICATIONS SYSTEMS

Proposals for an EU Convention

(This paper is intended to indicate the procedures and issues which could be included in a Convention or associated national legislation. It is not intended as a draft Convention)

1. Authorization of interceptions

- 1.1 Interception of communications in the course of transmission by an S-PCS system may be authorised by competent national authorities in accordance with the requirements of their national laws.
- 1.2. Each Member State shall establish a central authority responsible for certifying that an authorization has been issued in accordance with its national law. The certificate of the relevant central authority shall be accepted as conclusive on this point.
- 1.3. Member States in whose territories earth stations of S-PCS systems are to be situated shall establish a central authority to receive authorizations from the authorities of other Member States ("the receiving central authority").
- 1.4. On receipt of a valid authorization from a Member State, the receiving central authority shall [immediately] issue to the operator of the S-PCS system a [warrant] requiring the operator to intercept the communications specified in the national authorization, and to transmit the intercepted communications to the agency or body specified by the national authority.
- 1.5. The period for which the [warrant] is valid shall be determined by the national legislation of the requesting state.

- 1.6. Member States in whose territories earth stations of S-PCS systems are to be situated shall [if necessary] legislate to provide that interception in obedience to a [warrant] served under these procedures shall be lawful, and to create a duty on the operator to comply with a valid [warrant].

2. Redress and safeguards

- 2.1. A person who believes that his or her communications on an S-PCS system may have been intercepted shall be entitled to apply to a competent authority in the Member State which he believes to have initiated the interception.
- 2.2. The investigation of such complaints and the granting of any redress against unjustified interception shall be solely the responsibility of the competent national authority in accordance with national law.
- 2.3. Neither the system operator nor the receiving central authority shall disclose to any person that a [warrant] has been requested or issued or that an interception taken place.
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