EUROPEAN UNION
THE COUNCIL

Brussels, 17 November 1997 (21.11)
(OR. f)

12369/97

LIMITE

CRIMORG 20

OUTCOME OF PROCEEDINGS

from:	General Secretariat of the Council
to :	JHA Counsellors
Subject:	**Proposal for a Council Decision on a joint action establishing a programme of exchanges, training and cooperation for persons responsible for action to combat organized crime (FALCONE programme)**

JHA Counsellors will find annexed hereto the results of the meeting on 10 November 1997 with a revised draft from the Presidency based on the discussions by the JHA Counsellors. At the meeting, the Presidency said that the draft had been informally examined by the MWP on 22 October 1997. The results of the MWP's discussions were set out in 11694/97 CRIMORG 15. Seven delegations (DK/SF/P/UK/F/I/B) tabled a general scrutiny reservation on the draft. D and DK queried the instrument's legal basis and the Commission's right of initiative on the matter since cooperation on the fight against organized crime was a matter for the Member States. The Commission recalled that this issue had been decided by Coreper in discussions on the GROTIUS programme.

Proposal for a joint action adopted by the Council,
establishing a programme of exchanges, training and cooperation for persons responsible for action to combat organized crime
(FALCONE programme)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article K.3(2) and Article K.8(2) thereof,

Having regard to the Commission proposal ([1]),

Whereas the Member States regard the fight against organized crime in all its forms as a matter of common interest;

Considering the conclusions of the Amsterdam European Council in June 1997, which adopted the action plan on organised crime ([2]) established by the High Level Group, as reflected in the Council Resolution of ..... fixing the priorities for cooperation in the field of justice and home affairs for the period 1 July 1998 to 30 June 2000, ([3])

([1]) COM (97) 528 - 20.10.1997.
([2]) OJ C 251, 15.8.1997.
([3]) OJ

Mindful of the need for a coordinated multidisciplinary approach to the problem with respect to prevention and enforcement at both legislative and operational levels;

Whereas there is a need to focus this programme on activities contributing to the implementation and monitoring of the action plan to combat organized crime;

Whereas the institution of a framework to support measures designed to facilitate the implementation of the action plan, in particular action to facilitate multidisciplinary meetings and exchanges, research, studies and joint operational projects with a European dimension for those responsible for action against organized crime is likely to strengthen and facilitate the struggle against this phenomenon, and reduce such obstacles as may exist to increased cooperation between Member States in this area, particularly in the customs, police and judicial fields;

Whereas these objectives may be more effectively pursued at European Union level rather than at the level of the individual Member States, in view of the synergy which will develop from the exchange of specific experience available in the Member States and the anticipated economies of scale and cumulative effects of the intended measures;
Whereas this joint action is without prejudice to the powers of the Community and will therefore not detract from the Community measures taken or likely to be taken in the areas covered by the action plan;

Whereas, however, the enforcement and judicial aspects affecting these areas may be considered part of this programme when they complement Community measures, and it is therefore necessary for the implementation of the action plan to adopt a broad approach to the phenomenon of organized crime, including economic crime, fraud, corruption and money-laundering;

Whereas this joint action must not overlap with other Title VI programmes, and the annual priorities for these programmes must be adjusted accordingly to exclude in future operations specifically relating to the implementation of the action plan to combat organized crime;

Whereas this joint action does not affect existing procedural rules on customs, police and judicial cooperation;

Whereas the Presidency has consulted the European Parliament in accordance with Article K.6 of the Treaty on European Union,

HAS ADOPTED THIS JOINT ACTION:

Article 1

1. A programme ("Falcone") to promote coordinated measures for those responsible for the fight against organized crime ([1]), to facilitate the implementation and monitoring of the action plan to combat organized crime, is hereby established for the period 1997 to 2001.

2. For the purposes of this joint action, "persons responsible for the fight against organized crime" means the following categories of persons inasmuch as they have responsibilities in the area concerned under their national legislation: judges, public prosecutors, police and customs departments, civil servants, public tax authorities, authorities responsible for the supervision of financial establishments and public procurement, including the fight against fraud and corruption, and representatives of professional circles who may be involved in the implementation of some of the recommendations in the action plan.

([1]) D wondered whether fighting financial fraud should not be included. The Commission explained the reasons why this aspect had been excluded from the programme.

3. The programme covers measures in the following fields:

   - training;
   - joint operational projects of limited duration and exchanges of information on operational issues for cooperation in the fight against organized crime;
   - programmes of courses, organization of meetings and seminars;
   - research, specialized studies including operational feasibility studies, and assessment;
   - dissemination and exchange of information; and
   - all other measures that may promote the implementation of the action plan against organized crime.

4. Operations financed under this programme shall preclude cumulative recourse to any other Title VI programme under the EU Treaty and other Community financing programmes, with the exception of Community programmes specifically aimed at supporting the efforts of applicant countries to prepare for accession to the European Union.

Article 1a

The financial reference amount for the execution of the programme, for the period mentioned in Article 1(1), shall be ECU 10 million. Annual appropriations shall be authorized by the budget authority within the limit of the financial perspective.

Article 2

Subject to the provisions of Article 1(4), training projects having the following aims may be eligible:

- knowledge of specific aspects of regulations, legislation, procedures and practices relating to the various aspects of the fight against organized crime referred to in the action plan, as regards prevention, enforcement and prosecution;

– preparation of teaching modules for actions involving training, exchanges and training courses, conferences or seminars organized under this programme.

Article 3

Consideration may be given, for the purposes of cooperation between the Member States, to coordinated projects, including aspects relating to preparation and the temporary secondment of experts organized by the categories of persons referred to in Article 1(2) concerning joint operational projects of limited duration and exchanges of information on operational issues to combat various forms of organized crime, associating as often as possible the Europol Drugs Unit and Europol after the Convention concerning the latter has entered into force.

[Specific expert missions may also be eligible in the framework of the implementation of the mechanism for the mutual assessment of national provisions relating to the fight against organized crime covered by the action plan on organized crime.] (1)

Article 4

As regards training courses, exchanges and the organization of meetings and seminars, projects having the following aims may be eligible:

– the organization of visits to and limited-duration courses in public bodies which have been given particular responsibilities in the fight against organized crime;

– the organization and holding of seminars on specific aspects of organized crime.

(1) This paragraph will be deleted following Coreper's decision of 12 November 1997.

Article 5

As regards feasibility studies and research, projects having the following aims may be eligible:

- definition of common standards and methodology to facilitate identification of the phenomenon and data collection;

- scientific, technical or comparative research on specific aspects of the fight against organized crime or coordination of research on the matter;

- comparison and assessment of instruments directly or indirectly applicable to the fight against organized crime (prevention, enforcement and prosecution) to identify the possibilities for a definition of common policies and measures for convergence or harmonization which could constitute a long-term objective of the Union;

- comparison and assessment of methods used in the fight against organized crime by operational departments (police, customs, judiciary) to identify the means of improving and, where applicable, coordinating the methods in question.

Article 6

As regards dissemination and exchange of information, projects having the following aims may be eligible:

- assistance in setting up networks of contact points to facilitate the dissemination of information and cooperation procedures between the departments concerned (data collection and analysis system, enforcement and judicial services, integrated multidisciplinary teams); [1]

- aid for the development of databases or electronic data networks containing legislation and case-law on the fight against organized crime facilitating the action of the responsible persons referred to in Article 1(2);

- dissemination of information on the operations referred to in Articles 2, 4 and 5 and, where appropriate, operations under Article 3.

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[1] D and I questioned the wisdom of including networks of contact points. I proposed inserting a reference to the joint action concerning liaison magistrates.

Article 7

1. Projects receiving Community financing must be of European interest and involve more than one Member State.

2. Those responsible for projects may be public or private organizations, including, in particular, research institutes.

3. The projects to be financed shall be subject to a selection procedure taking into account in particular:

   - compatibility of topics covered with work undertaken or planned in Council multiannual (justice and home affairs) cooperation programmes;
   - input towards the framing or implementation of instruments provided for in Title VI of the Treaty;
   - complementarity of various projects;
   - number and nature of the services or categories of persons targeted;
   - quality of the institution responsible;
   - degree of preparation of the participants;
   - scope for drawing on results achieved in order to reinforce cooperation between Member States.

4. The projects may involve those responsible in applicant countries with a view to familiarizing them with the European Union *acquis* in this field and to help them prepare for accession, or in other non-member countries where it serves the aims of the projects.

Article 8

Financing decisions and the contracts deriving from them shall provide in particular for follow-up and financial monitoring by the Commission and audits by the Court of Auditors.

Article 9

1. All types of expenditure directly attributable to implementation of a project and incurred during a contractually set period shall be eligible.

2. Financial support from the Community budget may not exceed 80% of the cost of the project.

3. Translation and interpreting expenses, data-processing costs and expenditure on durables or consumables shall be taken into consideration only when they constitute a necessary support for carrying out the measure and may be financed only up to a maximum of 50% of the subsidy, or 80% where the very nature of the project makes it indispensable.

4. Expenditure relating to public premises and equipment and to remuneration of officials of State or public bodies may be taken into consideration only in so far as it concerns uses and tasks not linked with a national purpose or function but specifically connected with implementation of the project.

Article 10

1. The Commission shall be responsible for implementing the measures provided for in this joint action and shall adopt the detailed procedures for applying it, including the eligibility criteria for costs.

2. It shall draw up each year, with the assistance of experts from the relevant professional circles, appointed in close collaboration with the management committee referred to in Article 11, the draft annual programme implementing this joint action in terms of the thematic priorities and the distribution of available appropriations between fields of activity.

3. It shall undertake each year an assessment of the measures implementing the programme for the previous year.

Article 11

1. The Commission shall be assisted by a Committee consisting of one representative from each Member State and chaired by a representative of the Commission.

2. The Commission shall submit to the Committee the draft annual programme referred to in Article 10(2), including proposals for implementing rules and for project assessment. The opinion shall be delivered by the Committee, acting unanimously, within a period of two months. This period may be reduced by the Chairman for reasons of urgency. The Chairman shall not vote. If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw its proposal or submit a proposal to the Council, which shall take a decision unanimously within two months.

Article 12

1. Projects for which financing is requested shall be submitted to the Commission for scrutiny within a time limit to be determined in the annual programme referred to in Article 10(2).

2. The Commission shall examine the projects that are submitted to it with the assistance of the experts referred to in Article 10(2).

3. Where the financing requested is less than ECU 50 000, the representative of the Commission shall submit a draft to the Committee referred to in Article 11(1). The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on this draft within a time limit which the Chairman may lay down according to the urgency of the matter. The Chairman shall not vote.

   The opinion shall be recorded in the minutes; furthermore, each Member State shall have the right to ask that its position be recorded in the minutes.

   The Commission shall take the fullest account of the opinion delivered by the Committee. It shall inform the Committee of how it has done so.