EUROPEAN UNION
THE COUNCIL

Brussels, 27 March 1997

7071/97

LIMITE

CORDROGUE 10

NOTE

from :the Presidency

to :the Horizontal Drugs Group

No. prev. doc. :5439/97 ENFOPOL 16

Subject **: Proposal for a joint action based on Article K.3, par. 2, sub b, on an early warning system for synthetic drugs**

The Horizontal Drugs group has had, on the basis of documents 5439/97 ENFOPOL 16 and 5666/97 CORDROGUE 2, an in depth discussion concerning the establishment of a rapid information system for synthetic drugs (see for the results of the discussion doc. 6449/97 CORDROGUE 5). The Presidency has, on the basis of these discussions, formulated the attached proposal aiming at facilitating further discussion and decision-making in the Horizontal Drugs group. For the sake of convenience it is presented in the form of a draft Joint Action but the Presidency hopes the discussion on 2 April could concentrate on the substance of the proposal.

Joint early warning system concerning synthetic drugs

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on European Union, in particular article K.3 par. 2, sub b.

NOTING that article K.1 par. 4 considers combatting drug addiction as a matter of common interest.

NOTING that the Dublin European Council welcomed the progress reports on drugs on 13 and 14 December 1996 and endorsed the action proposed in that report, including the proposal to tackle the problem of synthetic drugs at three levels, namely, through legislation, practical cooperation against production and trafficking, and international cooperation.

REFERRING to the Joint Action of 17 December 1996, adopted by the Council pursuant to article K.3 of the Treaty on European Union concerning coordination of the legislation and practice of the Member States on combatting drug addiction and preventing and combatting illicit drug trafficking.

REFERRING in particular to article 5 of the said Joint Action, which provides that the Member States shall seek to prepare converging legislation as far as is necessary to eliminate any discrepancies and seal any gaps in legislation, and particularly to encourage the introduction of an early warning system whereby such drugs can be identified as liable to be prohibited as soon as they appear in a Member State.

CONSIDERING that an inventory has been drawn up since the adoption of the said Joint Action, from which it can be concluded that new synthetic drugs made of an amphetamine-like substance have appeared within the Member States of the European Union.

CONSIDERING that when new synthetic drugs are not brought within the scope of criminal law in all Member States, problems may arise in the international cooperation between the judicial authorities and law enforcement agencies of the Member States owing to the fact that the offence or offences in question are not punishable under the laws of both the requesting and the requested state.

DRAFT

JOINT ACTION

of

adopted by the Council on the basis of Article K.3 of the European Union, concerning the establishment of a rapid information system on new synthetic drugs.

Article 1

Purpose

This Joint Action establishes the structures of a rapid information system on new synthetic drugs. The purpose of this system is to signal rapidly new trends in traffic and use of such drugs in the Member States and to examine the risks of the developments with a view to the possible submission of such drugs to control in all Member States.

Article 2

Scope

This early warning system concerns synthetic drugs which do not fall within the scope of the schedules to the Convention on Psychotropic Substances (Vienna 1971) but which have comparable psychotropic effect. It relates to end products (as distinct from precursors, in respect of which Council Regulation (EEC) No 3677/90 and Council Directive 92/109/EEC prescribe a Community regime) and in particular amphetamine type stimulants (ATS).

Article 3

National correspondents in the Member States

1. The Member States shall designate a national correspondent for the collection of information on the traffic and use of new synthetic drugs and notify the Commisision thereof.

2. The Commission shall draw up a list of national correspondents and communicate it to the Member States.

Article 4

Content and format of information

1. When the national correspondents of the Member States have information relating to the traffic and use of new synthetic drugs, they communicate this information to the Commission.

2. Insofar as possible, this communication shall include:

   - information on the chemical precursors (without prejudice to Community instruments), and production methods;

   - information on the frequency and/or quantities in which a synthetic drug is encountered;

   - a chemical description, including the name under which this product is known;

   - an indication of the risks, including health and social risks, caused by the traffic and use if the synthetic drug;

   - information on the mode and scope of established or expected use as a psychotropic substance;

   - information on other use of the synthetic drug and the extent of such use.

3. The Member States shall use the standard form in Annex I.

4. The Commission shall distribute the information so provided immediately to the national correspondents of the other Member States and the European Monitoring Centre for Drugs and Drugs Addiction, the European Drugs Unit and the European Medicine Agency.

Article 5

Risk assessment

1. A Committee shall be established, consisting of experts from the Member States to assess the possible risks, including the health and social risks and possible side-effects of prohibition, caused by the traffic and use of the synthetic drugs. The Committee shall be chaired by the Commission. Representatives of the European Monitoring Centre for Drugs and Drugs Addiction, the European Drugs Unit and the European Medicine Agency may be invited to participate as observers.

2. The members of the Committee shall be nominated by the Member States on the basis of their expertise and competence in particular relating on the one hand to public health, epidemiology, toxicology and chemistry and on the other hand forensic science and law enforcement, whereby both expertises should be equally represented.

3. The Commission shall convene a meeting of the Committee, as appropriate, on its own initiative or at the request of one of the Member States.

4. The Committee shall carry out its assessment on the basis of the information provided by the national correspondents. It may decide that further studies be carried out.

5. Upon completion of the risk assessment, the Committee shall submit a report on its findings and, where appropriate, recommendations shall be adopted by the majority of its members. Minority opinions may be attached to the report.

Article 6

Follow-up of the risk assessment

If the Committee so recommends, the Commission, acting in accordance with Article K.3 (2) and without prejudice to the rights of the Member States, shall submit a proposal for a Joint Action to the Council, addressing the Member States to bring the new synthetic drugs under the control system in their national legislation on narcotic drugs and psychotropic substances.

Article 7

Final provision

This Joint Action shall be published in the Official Journal and enter into force on the day of its publication.

Done at ....., on .....