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EUROPEAN UNION
THE COUNCIL

Brussels, 28 May 1997

7071/5/97

REV 5
LIMITE

CORDROGUE 10

NOTE

from : Presidency

to : COREPER

No. prev. doc. : 7071/4/97 CORDROGUE 10 REV 4; 8433/97 CORDROGUE 31

Subject : **Draft Joint Action adopted by the Council on the basis of Article K.3 of the Treaty on the European Union, concerning the information exchange, risk assessment and the control of new synthetic drugs**

Pursuant to work of COREPER (meeting 21 May 1997), Horizontal Drugs Group (meeting 23 May 1997) and Council (26 May 1997) the text in annex reflects the progress on this draft joint action.

The Presidency recalling the political agreement at the meeting of the Council of 26 May 1997 submits this text to COREPER for final consideration.

THE COUNCIL OF THE EUROPEAN UNION

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

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 co-operation against production and trafficking and international co-operation;

REFERRING to the Joint Action of 17 December 1996, adopted by the Council pursuant to article K.3 of the Treaty on the European Union concerning approximation of the laws and practice of the Member States of the European Union to combat drug addiction and prevent and combat illegal drug trafficking.

REFERRING in particular to article 5 of the said Joint Action, which provides that the Member States shall endeavour to draft convergent legislation to the extent necessary to make up legal ground or fill legal vacuums as regards synthetic drugs. In particular they shall promote the establishment of a rapid information system to enable such drugs to be identified as substances liable to be prohibited as soon as they appear anywhere in a Member State.

CONSIDERING that the particular dangers inherent in the development of synthetic drugs require rapid action by the Member States;

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 offenses in question are not punishable under the laws of both the requesting and the requested state;

CONSIDERING that from an inventory drawn up since the adoption of the said Joint Action it can be concluded that new synthetic drugs have appeared within the Member States of the European Union;

CONSIDERING that common action can only be taken on the basis of reliable information on the emergence of new synthetic drugs and the results of expert assessment of the risks caused by the use of the new synthetic drugs and implications of submitting such drugs under control;

CONSIDERING that it is therefor necessary to set up a common mechanism permitting expeditious action, in taking necessary measures or introducing controls or psychotropic substances in the Member States, equally applicable to specific new synthetic drugs, on the basis of a rapid exchange of information on new synthetic drugs emerging in the Member States and the common assessment of the risks thereof;

WITHOUT PREJUDICE to the powers of the European Communities,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Purpose

This Joint Action aims at the creation of a mechanism for rapid exchange of information on new synthetic drugs and the assessment of their risks in order to permit the application of the measures of control on psychotropic substances, applicable in the Member States, equally to new synthetic drugs. This will be jointly determined in accordance with the procedures established hereunder.

Article 2

Scope

This joint action concerns new synthetic drugs which are not currently listed in any of the Schedules to the Convention on Psychotropic Substances (Vienna 1971), and which pose a comparable serious threat to public health as the substances listed in the Schedules I or II and which have a limited therapeutical value. 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 provide for a Community regime .

Article 3

Exchange of information

1. Each Member State shall ensure that its Europol National Unit and its representative in the REITOX network shall provide information on the production, traffic and use of new synthetic drugs to the Europol Drugs Unit or the European Monitoring Centre for Drugs and Drug Addiction, taking into account the respective mandates of these two bodies. The Europol Drugs Unit and the European Monitoring Centre for Drugs and Drug Addiction shall collect the information received and communicate this information in an appropriate manner immediately to each other and to the Europol National Units and the representatives of the REITOX-network of the Member States, to the Commission and the European Agency for the evaluation of Medicinal products.

2. This information shall include :

a.
- a chemical and physical description, including the name under which a new synthetic drug is known
- information on the frequency, circumstances and/or quantities in which a new synthetic drug is encountered
- a first indication of the possible risks associated with the substance

and as far as possible:

b. - information on the chemical precursors
- 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
- further information on the risks of use of the substance, including the health and the social risks.

Article 4
Risk assessment

1. At the request of one of the Member States or the Commission, the EMCDDA shall convene a special meeting under the auspices of the Scientific Committee extended with experts nominated by the Member States and to which representatives of the Commission, the EDU and the European Agency for the evaluation of Medicinal products shall be invited.

   This committee shall assess the possible risks, including the health and social risks, caused by the use of, and traffic in, new synthetic drugs, and possible consequences of prohibition.

2. The assessment shall be carried out on the basis of information provided by the Member States, the Commission, the European Monitoring Centre for Drugs and Drug Addiction, the Europol Drugs Unit or the European Medicine Agency and taking into account all factors which according to the Convention on Psychotropic Substances (Vienna 1971) would warrant the placing of a substance under international control.

3. Upon completion of the risk assessment, a report will be drawn up on the findings. In the report all the factors shall be addressed. All opinions on these factors shall be reflected in the report.

Article 5

Procedure for bringing specific synthetic drugs under control

1. The Council, may, on the basis of an initiative to be presented within a month from the date on which the report of the results of the risk assessment pursuant to Article 4(1) is established and acting in accordance with Article K.3(2)(b) of the Treaty on European Union, adopt unanimously a decision defining the synthetic drug or drugs which are to be made subject to necessary measures or control.
   If the Commission deems it not necessary to present an initiative to have the drug or drugs submitted to control measures it shall present a report to the Council explaining its views.

   The Member States undertake, in accordance with the decision taken by the Council, within such delay as that decision may specify, to take the necessary measures in accordance with their national law to submit these synthetic drugs to control measures and criminal sanctions as provided in their legislation adopted to comply with their obligations under the 1971 Convention on Psychotropic Substances with respect to substances listed in schedules I or II to that Convention.

2. Nothing in this Joint Action shall prevent a Member State, from maintaining or introducing on its territory any national control measure as it deems appropriate once a new synthetic drug has been identified by a Member State.

3. The Presidency shall each year submit a report to the Council on the implementation of the decisions adopted by the Council on the basis of paragraph 1.

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.....