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NOTE

from: Presidency

to: MDG

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Subject: Progress report to the European Council (meeting in Vienna) on the combating of organised crime

Delegations will find attached the revised draft progress report to the Vienna European Council (Annex I), including the table showing the state of implementation of the Action Plan to combat organized crime (Annex II). The draft will once again be supplemented and amended in the light of further developments and of the discussions in the MDG before submitting it to the Council.

Like the United Kingdom Presidency, the Austrian Presidency prefaces the report with a brief summary, which highlights the major developments since the last report has been submitted to the European Council, and reflects on possible follow-up exercises.

PROGRESS REPORT TO THE VIENNA EUROPEAN COUNCIL

on the

**IMPLEMENTATION OF THE RECOMMENDATIONS IN THE ACTION PLAN AGAINST
ORGANISED CRIME**

SUMMARY

After the Amsterdam European Council had endorsed the Action Plan to combat organised crime in June 1997, the Multidisciplinary Group on Organised Crime (MDG) was convened in July 1997. Until November 1998 it has met eighteen times to drive forward the work to implement the Action Plan, but also to put the implementation in the wider context of the development of an effective response by the European Union to organised crime. The support by the General Secretariat of the Council with the national experts attached to it has proven to be most valuable in this respect.

Substantial progress has been made; all the action points with target dates of end 1998 or earlier have either been completed or are well underway, although in some points obstacles to a full implementation have to be noted.

Specific achievements include:

[Adoption of] a Joint Action aiming at making it a offence under the laws of each Member State for a person, present in its territory, to participate in a criminal organisation, irrespective of the location in the Union where the organisation is concentrated or is carrying out its criminal activity;

[Adoption of] a Joint Action on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime;

[Adoption of] a Joint Action on corruption in the private sector;

[Adoption of] a Council Resolution on the prevention of organised crime with reference to the establishment of a comprehensive strategy for combating it;

Entry into force of the Europol-Convention;

Taking up of activities of the European Judicial Network;

First round of evaluations as provided by the Joint Action establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime;

Progress in the implementation of the Pre-Accession Pact on organised crime with the applicant countries of Central and Eastern Europe, including the Baltic States, and Cyprus;

C. Situation report 1997 on organised crime in the European Union, drawing on improvements to the mechanism for collecting and analysing data on organised crime in preparing the report;

Analysis of the factual situation with regard to the strengths and weaknesses of the existing structures in the Member States for receiving and processing suspicious transaction reports on money laundering, and discussion of recommendations resulting therefrom.

As under previous Presidencies, the MDG also provided an important forum for continuing strategic policy development as well as the improvement of practical and operational cooperation. The development of strategic guidelines for the combat against high tech crime, against fraud and against corruption could be mentioned in this context. Discussions in the margins of MDG meetings with representatives of the USA, Canada, the Council of Europe and other international fora have contributed to this approach. Furthermore, the proceedings of the Expert Group on organised crime and drugs in the framework of the European Conference have been held in close coordination with the work of the MDG itself and the topics it discussed. Further development of cooperation with Russia was another field of priority.

Under the Austrian Presidency a Plan of Action on establishing an area of freedom, security and justice was elaborated in accordance with the conclusions of the Cardiff European Council, which is also of great importance for the further development of the combat against organised crime, and especially for the evaluation of the implementation and the updating of the Action Plan on organised crime.

In the light of developments, and with a view to the informal summit of Heads of State and Government planned in the second half of 1999, it would seem appropriate to evaluate if the intentions and goals set out in the High Level Group report have been met. It would also seem appropriate to draw conclusions from this evaluation, also with respect to the modalities of a possible follow-up to the Action Plan on organised crime, e.g. by the eventual convening of another High Level Group.

Thus, the European Council is invited to:

take note of the present report;

instruct the Council to continue work to implement the Action Plan on organised crime as a priority;

instruct the Council to consider and to evaluate if the intentions and goals of the High Level Group report were met, and to consider a possible follow-up to the Action Plan;

require a further progress report by mid 1999.

Origins of the Action Plan; Introduction

1. At the Dublin I European Council on 5 October 1996, Heads of State and Government emphasised the importance of stepping up European Union action against crime. The Irish Presidency responded with proposals for a comprehensive approach to combating organised crime within the European Union which were submitted to and given general support by the Council (Justice and Home Affairs) on 28 and 29 November 1996.
2. Welcoming the preparatory work carried out by the Irish Presidency, the Dublin II European Council on 13 and 14 December 1996 endorsed the case for a co-ordinated and coherent approach by the European Union and decided to create a High Level Group of senior officials mandated to report to the Council by March/April 1997. The High Level Group was also to draw up an Action Plan containing specific recommendations for action against organised crime, including realistic timetables for carrying out the work.
3. The High Level Group's Report was approved by the Amsterdam European Council in June 1997. Under the Luxembourg Presidency, a Multidisciplinary Group on Organised Crime (MDG) was established in accordance with Recommendation 22 of the High Level Group's Report, to take forward the Action Plan contained in the Report. The Multidisciplinary Group brings together operational law enforcement practitioners, prosecutors and policy makers at a senior level. The work of the MDG and the progress it is making with the implementation of the recommendations in the Action Plan provide clear and tangible evidence of the European Union's determination to promote a comprehensive, effective and appropriate response to the menace of organised crime.
4. The first progress report from the MDG on the state of implementation of the recommendations in the High Level Group's Action Plan against organised crime was submitted to the Cardiff European Council on 15 and 16 June 1998 for its consideration and approval. As well as reporting on the recommendations, it set implementation in the wider context of the development of an effective response by the European Union to organised crime. The European Council approved the report and instructed the Council to submit a further report at the end of 1998. This report summarising the progress of proceedings is herewith submitted to the European Council for its consideration and approval.

5. Like the previous report, this report follows the structure of Part III of the "Action Plan to combat organised crime"¹ and is accordingly divided into six chapters². Information which falls outside the strict reporting on the state of implementation of the recommendations and covers the European Union's broader response to organised crime has been included in the relevant chapter. According to established practice, a table summarising the state of implementation of the recommendations is also attached.
6. Under the United Kingdom Presidency, the MDG held a general debate on the Resolution of the European Parliament on the Action Plan on Organised Crime (rapporteur: Mrs Cederschiöld) and agreed to take account of this Resolution when further implementing the Action Plan. [An important development which resulted from the particular attention paid to the European Parliament Resolution was the adoption by the Council (JHA) on 3 and 4 December 1998 of a Resolution on the prevention of organised crime (cf. Chapter II).]

CHAPTER I: An approach to the phenomenon of organised crime

(Recommendations 1 to 5)

1. Beginning with the Luxembourg Presidency, national material on the Member States' organisational structures for responding to the phenomenon of organised crime has been collected and collated.³ A digest, containing details for each Member State of the body responsible for co-ordinating the fight against organised crime, central contact points for cooperation between States and arrangements for the establishment of multi-disciplinary teams, was prepared and circulated by the UK Presidency. In addition, during the Austrian Presidency the digest was circulated to the experts group set up under Recommendation 3 of the Action Plan (Pre-Accession Pact experts group - PAPEG) and to the experts group on organised crime and drugs, established by the European Conference. The digest is intended for use by practitioners and contains contact details

¹ Brussels, 21 April 1997, OJ C 251 p 1, 15.8.1997.

² Passages in [square brackets] refer to upcoming measures or to measures which have not yet been discussed.

³ Recommendations 19 and 20 are linked with recommendation 1. They deal with national contact points and the establishment of multidisciplinary teams.

to facilitate more effective international co-operation between law enforcement bodies. It was further updated under the Austrian Presidency. [...]

2. The High Level Group considered the practical organisation of national responses to organised crime, and equally recognised the importance of developing a deeper understanding of the phenomenon. The collection, and central analysis, of comparable data from Member States is essential for developing this understanding. The Contact and Support Network was established during the Netherlands Presidency as a forum to look at ways in which the European Union reports on organised crime could be improved. In the first six months of 1997, a revision of the reporting mechanism was agreed by the Council to take effect with the production of the 1997 situation report.
3. During the second half of 1998, the MDG considered the draft 1997 situation report on organised crime in the European Union on the basis of the measures agreed the previous year to enhance the quality of the 1997 report, which was accepted by the Council (JHA) on 3 and 4 December 1998. A report on the situation relating to organised crime will be submitted to the European Parliament for information.
4. In preparing the 1997 report, the Presidency made use of both the Contact and Support Network and the increasing contribution from Europol to continue the process of improving the quality of the annual situation report on organised crime begun under earlier Presidencies. Problems associated with the compilation of earlier reports (particularly the comparability of different national contributions) were examined, and ways sought for improving the final report to enable its use as a document which could influence strategic decisions and assist in the setting of priorities for action by the European Union.

Under the Austrian Presidency two versions of the situation report on organised crime were drawn up for the first time. A comprehensive report, which also contains sensitive data, particularly regarding the work of the law enforcement bodies and the future establishment of defensive measures against organised crime, and a second version of the situation report, which contains a general overview of the present situation in the EU, the main areas under threat from organised crime and current modus operandi; a report will also be forwarded to the European Parliament.

5. A meeting of leading European Union academics and researchers on organised crime was held on 18 and 19 May 1998 with the joint aims of examining the current state of research, and assessing whether it would be possible to develop a European research strategy. Their findings were discussed by the MDG; informal arrangements were contemplated whereby the EU academics could stay in touch with each other and the MDG be informed periodically on new scientific developments in the area of organised crime. The work done in other areas (for instance within the contact network on the situation report on organised crime) will have to be coordinated with the scientific conclusions. A proposal was made with a view to increasingly involving EU academics in research on high tech crime.
6. While it is certainly important to deepen understanding of the phenomenon of organised crime within the European Union, it is clear that a truly effective response must include and actively involve countries outside the Union. Key partners in this regard include the countries of Central and Eastern Europe, including the Baltic States, and Cyprus, Russia, Ukraine, the USA and Canada. Organised crime was, as a result, one of the main topics for discussion at the meeting of the EU-USA Senior Level Group on 14 July 1998 at which United States representatives were invited to various seminars organised by the Presidency. The MDG heard a report on the USA's international strategy to combat crime.

Moreover, with a view to combating organised crime beyond the Union's borders, on 12 March 1998 the European Conference agreed to set up a Group of Experts which was to report within the year on possible measures to resolve problems in relation with drug trafficking and organised crime. The Working Party (in which Norway, Iceland and Switzerland participate as well as the European Conference States) agreed to give priority to the setting up of contact points in accordance with the action plan in all participating States, to involve non-Member States in Member States' networks, to invite each other to seminars and to exchange information on proven methods as measures to be implemented in the short term. At the meeting of the European Conference on 6 October 1998, the participating States agreed to strengthen practical cooperation measures for combating child pornography and organised trafficking in human beings; furthermore the Experts Group examined the possibility to extend the measures provided for in the Joint Action of 24 February 1997 to combat trafficking in human beings and the sexual exploitation of children to all States participating in the European Conference.

7. The conclusion of a Pre-Accession Pact with the applicant countries of Central and Eastern Europe, including the Baltic States, and with Cyprus on cooperation to combat crime was given priority under the UK Presidency. The Pact was agreed at the Council (JHA) meeting on 28 May 1998. In the second half of 1998, implementation of the Pre-Accession Pact began and progressed.

At two meetings of the Experts Group provided for in Principle 15 of the Pre-Accession Pact (PAPEG), agreement was reached on the measures required to implement the Pact. The measures adopted include in particular gradual inclusion of the applicant countries in the judicial network, improved information exchange and the negotiation with the applicant countries of cooperation agreements with Europol. The Commission envisages to apply the general orientations regarding the participation of candidate countries to the Community programmes and mechanisms to implement the acquis also to Title VI cooperation programmes.

The implementation of the Pre-accession Pact was also discussed with the applicant States in the margins of the Council (JHA) meeting on 24 September 1998. In the conclusions the following measures were stressed, inter alia: the particular importance of sending liaison officers from the applicant States to Europol, strengthening police cooperation and gradual incorporation of the applicant countries into the Union's networks.

8. Under the United Kingdom Presidency, attention was drawn to the read-across between the work on preparing the Pre-Accession Pact and the ongoing work of the Association of European Police Colleges (AEPC) on developing a European Union Framework Training Curriculum for the Central and East European countries. A project to this effect is presently carried out by the AEPC and entirely funded by the PHARE programme. During the Austrian Presidency, the MDG heard a presentation on the findings of a year's study by the Central European Police Academy (MEPA) – originally founded by Austria and Hungary –and concluded that the results of study were also of importance to the enlargement process; the findings will also be forwarded to the Working Party on Collective Evaluation.

9. Practical cooperation with Russia was developed further through a second meeting of European Union Liaison Officers held in Vienna on 16 September 1998. At this meeting it was suggested that an ongoing evaluation be made of the EU Member States' bilateral agreements with Russia as regards cooperation among law enforcement authorities (by the Council General Secretariat together with Europol and the Commission) and consideration was given to the convening of a practitioners' forum and to holding a follow-up meeting in Moscow with representatives of the Russian law enforcement authorities attending.

The common working programmes within the context of the Partnership and Cooperation Agreements with Russia and Ukraine include measures to combat money-laundering, customs fraud and drug trafficking. A feasibility study in the framework of the TACIS programme endeavours to identify the requirements and conditions in Russia and Ukraine to adopt specific anti-money laundering standards and practices, as laid down in the 40 recommendations of the FATF and the Council of Europe convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime.

10. The Europol Convention entered into force on 1 October 1998 and on the same day Europol's Management Board was established (see Chapter V). The instruments which constitute the legal basis for Europol's cooperation with third countries were approved by the Council of the European Union or of Europol's Management Board. They govern the procedure for the conclusion of cooperation agreements between Europol and third countries, the conditions for the exchange of information including personal data and the posting of liaison officers. A process for future cooperation was initiated with a contact visit by US officials to the EDU and a return visit by the EDU to the US in June 1998. A further visit by US officials to Europol was carried out during the Austrian Presidency.
11. Already under the Luxembourg Presidency, US and Canadian experts were involved in discussions on the subject of high tech crime and during both the Luxembourg and United Kingdom Presidencies the MDG received reports on the current work by G8 on this subject. In addition, the Council (JHA) on 19 March 1998 gave its political endorsement to the approach set out in the 10 Principles on high-tech crime, the 40 Recommendations on organised crime and the 25 Recommendations on terrorism, approved within the framework of the G8 during the 1996 meeting in Lyon and in 1997 in Washington.

On 29 September 1998, a co-ordination meeting was held with representatives of other fora including the Council of Europe and the G8's Lyon Group to take stock of the activities of other fora in the sphere of internet crime with a view to avoiding duplication. These discussions identified areas of overlap and possible duplication and laid down topics which needed further examination.

On 21 October 1998 a further MDG meeting was held with the Transatlantic partners and representatives of other international fora, again on the subject of high-tech crime, from which it emerged in particular that an international conference of national authorities together with representatives of service providers could contribute to an improvement of cooperation especially with respect to law enforcement as well as efficient industry self regulation.

In this context it should be noted that the Commission announced it was preparing a comprehensive communication on high-tech crime to be presented early in 1999, as a follow-up to the study by the University of Würzburg (COMCRIME) which had been presented to the MDG during the UK Presidency.

A particular form of high-tech crime is the misuse of the Internet for child pornography. In an effort to improve law enforcement in this area, the Austrian Presidency suggested a Joint Action to combat child pornography on the Internet. That Joint Action provides inter alia for: the setting up of national contact points for reporting suspicious information; the exchange of information between national units via Interpol and Europol; examination of the obligations of the service providers as regards behaviour and the duty of care; cooperation with the authorities. [The Joint Action was approved by the Council in December 1998, subject to examination of an opinion by the European Parliament.]

The conclusions adopted by the Council (General Affairs) on 5 October 1998 gave a comprehensive inventory of the many activities of the EU and other international fora in the sphere of the protection of children and thus contributed in the interest of the consistency of the Council's proceedings to the coordination of various initiatives and gave a political impetus for further work in this area.

CHAPTER II: Prevention of organised crime

(Recommendations 6 to 12)

1. Significant progress has been made towards developing a comprehensive European Union policy for the combating of organised crime. [In particular the Council (JHA), following a call by the European Parliament, adopted on 3 and 4 December 1998 a Resolution on the prevention of organised crime with reference to the establishment of a comprehensive strategy for combating it.] This instrument should supplement and strengthen the efforts to implement the Action Plan; particular emphasis is laid on the fact that the combating of international organised crime backed up by effective, sustainable repression also requires a wide range of preventive measures. Various areas are highlighted in which preventive measures seem promising, with particular attention being paid to the development of national organisations, to prevention work and to research and the exchange of information. The Resolution calls upon the Commission, Europol and the Member States to report by the end of the year 2000 on the measures adopted and the knowledge acquired as regards prevention strategies.
2. The basic features of a comprehensive Union policy against corruption were already outlined under the United Kingdom Presidency. In the second half of the year, further progress was made. [In December 1998, the Council adopted a Joint Action on corruption in the private sector.] The Union thus created the first obligation in this connection at international level. The legal instrument goes beyond the sphere of corruption of officials covered hitherto and obliges the Member States to introduce the criminal offence of acts of corruption within private undertakings. The adoption of the explanatory report on the Corruption Convention now enables Member States to swiftly ratify and implement that Convention.

In June 1998, the Commission submitted a report to the MDG on measures in areas it had identified in its communication on a comprehensive policy to combat corruption, namely: public procurement, company accounting, blacklisting and protection of vulnerable professions. In December 1997 the Commission circulated a questionnaire on exclusion from participation in public procurement, the replies to which were discussed by the MDG in November 1998. The essential outcome of that discussion was that an information system on convictions with a view to exclusion from participation in public procurement should be considered. The Commission announced that it would propose amendments to the public procurement directive early in 1999.

These activities have provided the essential elements of a comprehensive Union policy to combat corruption; these elements will have to be built on in future. They are in line with other international developments in this field and could be further developed through ongoing efforts of the Council of Europe in this area (where the Criminal Law Convention against Corruption has been adopted on 4 November 1998). In addition, the Member States, acting within the framework of the OECD, continued their undertakings to ratify the OECD Convention on combating bribery in international business transactions.

3. The MDG discussed features of a comprehensive Union fraud prevention policy, relating in particular to the Commission's annual report for 1997 on its work to protect the financial interests of the Communities, its work programme on fraud prevention for 1998/1999 and the Council's (ECOFIN) conclusions on this topic. The MDG's discussions concentrated in particular on the report of the High Level Group on the fight against fraud in the tobacco and alcohol sector, a Commission report on combating fraud in the area of excise duties and the report submitted by the Customs Cooperation Working Party on customs measures to combat fraud in the third pillar. The MDG concluded that these elements should be further developed; in particular consideration should be given to any area of organised crime involving customs and tax fraud essentially combated by the customs and tax departments so as to ensure the closest possible interdisciplinary cooperation in this area also.

4. The joint proposal from Luxembourg and the European Commission concerning the establishment of the Falcone multi-annual funding programme was adopted by the Council (JHA) on 19 March 1998. Funding opportunities provided by the Falcone programme are central to securing successful implementation of the recommendations in the Action Plan. The Falcone programme supplements existing Third Pillar funding programmes such as OISIN, Grotius, Odysseus and STOP. The Falcone Management Committee met and approved the annual programme for 1998 on 16 April 1998. The essential topics in the annual programme are measures to improve the exchange of information and the comparability of results, studies on the essence of organised crime and the instruments needed to fight it, education and training events including exchanges and projects to improve operational capability and methods.

78 applications for support were made on the basis of the first annual programme; the Falcone Committee took its decision on them on 7 October 1998, approving the cofinancing of 35 projects for 1998, representing a financial support of 2.246.560 ECU. Twelve of the projects provide for a participation of applicant countries. The projects to receive assistance include training and teaching modules, conferences and seminars, projects with special focus on practical problems, and research and specialised studies. Projects of particular importance for the Action Plan relate to issues like corruption, money-laundering, fraud, law enforcement and judicial cooperation, codes of conduct for professions exposed to the influence of organized crime, high tech crime, and public procurement.

5. In the first half of the year the Commission made contact with the European associations of lawyers, notaries and accountants. The dialogue with these associations, aimed at examining how best to protect professions which might be exposed to the influence of organised crime, began with a meeting on 25 June 1998. It was agreed that it would be useful to draw up a code of conduct for each individual profession. These codes had to balance the interests of discretion with other public interests. What was required was an improvement in information as well as education and further training for the professional groups in question and additional efforts in the statistical and academic spheres.

A follow-up meeting was held in October 1998, at which discussions continued, also on the basis of consideration of this matter by the MDG, generally supporting the Commission's approach. Main topic of these discussions was a draft "Charta of the European professional associations in supporting the fight against organised crime", containing a list of the main elements to be covered by codes of conduct. See also Chapter VI, point 1 below.

CHAPTER III: Legal instruments, scope, implementation

(Recommendations 13 to 18)

1. A questionnaire on the current state of signature and ratification by Member States of the instruments listed in Recommendations 13 and 14 was issued by the United Kingdom Presidency in March 1998; the replies since have been evaluated. Furthermore the K.4 Committee has regularly monitored the state of implementation of a number of the Conventions listed in Recommendations 13 and 14. The Council (JHA) too has, at all its meetings under the Austrian Presidency, monitored the state of ratification of the Conventions cited in Recommendations 13 and 14.

It should be noted that, pursuant to Recommendation 14 of the Action Plan, the Convention on the Protection of the European Communities' Financial Interests, the (first) Protocol of 27 September 1996 to that Convention and the Protocol of 29 November 1996 on the interpretation of that Convention by the Court of Justice of the European Communities by way of a preliminary ruling should have been ratified by mid-1998. Most Member States have not yet fulfilled that obligation although since that date most Member States have initiated ratification procedures.

2. After the Council (JHA) on 28 May 1998 had agreed upon rules of procedure for the Management Committee of the Customs Information System Convention, all necessary steps were taken under the Austrian Presidency to ensure implementation of the CIS Convention. [In December 1998 the Council (JHA) adopted rules on the delimitation of databases, technical user requirement targets, screen formats and database elements; a draft of the rules of procedures has been sent to the EU data protection experts committee.] Once eight Member States will have ratified the CIS Convention as well as the agreement on provisional application (current state of ratification: four Member States), and once the technical design features will be finalised by the Commission, the Customs Information System can become operational.

Following the adoption of the Naples II Convention in December 1997, the Explanatory Report was approved in May 1998 by the Council (JHA). Member States agreed in the Council Customs Cooperation Working Party to ratify the Naples II Convention by the end of 1999. Following ratification, an implementation manual is to be prepared based on the replies received to a questionnaire drawn up by the Customs Cooperation Working Party.

3. Following the adoption by the Council (JHA) in December 1997 of the Joint Action establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime, the first round of evaluations began during the United Kingdom Presidency, focusing on the effectiveness of mutual legal assistance between Member States. Luxembourg was the first Member State to be evaluated; the results of the evaluation will be discussed in the MDG before the end of the Austrian Presidency. In the second half of 1998, the Netherlands, Ireland, Italy and Greece were evaluated; the results of these evaluations are currently being studied; the work of the evaluation teams is proceeding smoothly.

4. Work on a draft Convention on Mutual Assistance in Criminal Matters, which should under Recommendation 16 of the Action Plan have been finalised by the end of 1997, could not be concluded in the first half of 1998 owing inter alia to the absence of agreement on arrangements for mutual assistance involving interception of telecommunications. [Under the Austrian Presidency it proved possible to reach a compromise solution and conclude this matter: the Council (JHA) reached agreement on the text of the said Convention on XX.XX.1998. The preparatory work on a Protocol to that Convention continued and should be completed in the first half of 1999 as should the discussions on the explanatory text on the Convention.]
5. The Joint Action on good practice in mutual legal assistance entered into force on 7 July 1998. This Joint Action sets out practical steps through which Member States can help their authorities to provide effective mutual assistance in criminal matters. Under Article 1 of the Joint Action, each Member State is to deposit a Statement of good practice with the General Secretariat of the Council within twelve months of the coming into force of the Joint Action.
6. [On 3 and 4 December 1998 the Council (JHA) adopted a Joint Action on participation in criminal organisations.] Responding to political guideline No 1 of the Action Plan approved by the Heads of State and Government, this Joint Action sends a strong signal regarding the common fight of the Member States against organised crime. It imposes for the first time an obligation on all Member States to ensure they have laws permitting effective prosecution of persons involved in criminal organisations or conspiracies, including those who use the territory of one Member State as a base from which to orchestrate criminal activity in other Member States. Member States must also ensure that legal persons may be held liable. The Joint Action also ensures that Member States afford one another the most comprehensive assistance possible in respect of these offences.

7. The Resolution of 20 December 1996 on individuals who co-operate with the judicial process in the fight against international organised crime stipulates that an assessment of its implementation is to be made by the end of 1997. To that end, a questionnaire was circulated to the Member States so that a report to the Council could be drawn up on the basis of the information received. An analysis of the replies showed that the Resolution was being only partially implemented. The MDG therefore decided to ask the Council to take cognizance of the report and to subject further application of the Resolution to fresh scrutiny in mid-1999, especially with regard to the question whether there exist difficulties for law enforcement, the judicial process and cooperation among Member States. Discussion also covered the question of whether the final content of the report should also be forwarded to the European Parliament for information.
8. On the question of limitation periods for serious offences, a questionnaire was sent to the Member States to determine the existing legal situation. In the light of the evaluation of the findings, the conclusion was reached that the Member States' legal systems differed considerably in this respect. However, it was also established that the question whether these differences (which are due to differences in fundamental principles of the national criminal systems) actually cause difficulties for law enforcement, the judicial process and co-operation among Member States will have to be further studied. The European Judicial Network will be asked if practical difficulties in this respect arise.

CHAPTER IV: Practical co-operation between police, judicial authorities and customs in the fight against organised crime

(Recommendations 19 to 22)

1. While the work of the MDG has been driven by the recommendations in the Action Plan and the deadlines imposed for their implementation, the Group has also provided a forum for continuing strategic policy development and improving operational co-operation (e.g. by developing tools and mechanisms to support joint law enforcement operations, identifying priorities for such operations and addressing difficulties which may arise in practice).

2. An example of the Group's involvement in strategic policy development is its consideration of the wider issues surrounding the production of the 1997 situation report on organised crime in the European Union. In preparing the 1997 report the Group built on the work of previous Presidencies. Discussions on coordinating the views of Member States and the eventual elaboration of a Joint Position relating to the draft UN Convention on organized crime, the Resolution on the prevention of organised crime and work on drawing up elements of a strategy against high-tech crime as well as efforts to coordinate action in this field should also be mentioned.
3. Under the Austrian Presidency a meeting was held, in cooperation with Europol, in The Hague: on the basis of case studies of organised crime, conclusions for the preparation of future case studies and proposals for more efficient cooperation between law enforcement agencies were drawn up. In the MDG case studies were examined and suggestions made regarding the action which hence seemed indicated for the law enforcement agencies to take.
4. The Council's Customs Cooperation Working Party carried out a number of surveillance operations mainly co-funded by the OISIN programme, with the participation of other organisations on occasion. There was, for example, the Balkans Route exercise, backed by the World Customs Organisation and involving the law enforcement agencies of 29 countries, Operation Taboo (concerning trade in goods liable to excise duty across the external land border), in which UCLAF assisted, and a number of other operations concerning shipping and container traffic. It was also decided that, as far as possible, future exercises would involve Europol and other agencies active in this field, inasmuch as the exercises did not relate to Community matters.
5. The MDG was also involved in the collection and dissemination of information concerning national contact points and the establishment of multidisciplinary teams. This information has been collated for the benefit of practitioners, and the Group has a standing remit to ensure the information is kept up to date. Additionally, the Group provides the appropriate forum for ensuring all Member States are informed of developments in the fight against organised crime taking place at a national level. [...]

6. The Joint Action establishing the European Judicial Network was adopted by the Council (JHA) in May 1998 and entered into force on 7 August 1998. The first meeting of the national contact points of the Network took place on 25 September 1998. Consideration was given during the meeting to the most effective arrangements for exchanging information through the European Judicial Network, and to the content of such information, and the Council will receive a report on this issue within the prescribed deadline. Within six months of entry into force the Council will have to examine whether a telecommunications network should be set up, and at the close of the one-year start-up phase it will carry out an initial assessment of the network.
7. At its meeting in Cardiff the European Council agreed on the need to enhance the ability of national legal systems to work closely together; to that end the scope for greater mutual recognition of decisions of Member States' courts in criminal cases was to be identified. The MDG therefore drew up a questionnaire to ascertain what experience Member States had had with existing Conventions in this area and why a number of them had not ratified some of these Conventions. On the basis of an analysis of the responses to the questionnaire the MDG held discussions on a coherent long-term programme for wider mutual recognition in the field of judicial cooperation.
8. In September 1998 a conference was held in Innsbruck in the framework of the Grotius Programme on the topic "The Future of Judicial Cooperation in Criminal Matters in Europe". Representatives of all the Member States and of the eleven applicant States took part. Presentations and discussions concentrated on the difficulties and possibilities of improving practical judicial cooperation .
9. Preliminary discussions took place during the Luxembourg and UK Presidencies with a view to examining the place and role of judicial authorities in their relations with Europol, in step with the enlargement of Europol's competences. The possibility of a formal, permanent link between the European Judicial Network and Europol was one of the issues explored when Member States were canvassed for their views. [...] Further discussion of this matter should take place on the basis of future experience, and once Europol starts its activities the practical experience gained in implementing the Convention, in force since 1 October 1998, will also contribute to this discussion.

CHAPTER V: Development of a fully-fledged Europol and extension of Europol's mandate and tasks

(Recommendations 23 to 25)

1. Following ratification by all the Member States, the Europol Convention entered into force on 1 October 1998. The outstanding legal acts required for Europol to start its activities are close to being adopted or approved by the Council.

Following the entry into force of the Europol Convention the Europol bodies were set up and the procedure required to launch Europol's activities was carried out. Under the Austrian Presidency, Europol's Management Board determined unanimously the rights and obligations of liaison officers in relation to Europol; it also adopted unanimously the rules for Europol's co-operation with EU bodies. Furthermore, after unanimous approval by the Management Board, the headquarters agreement between Europol and the Netherlands was signed. The start of Europol's activities, tied as it is to the date of entry into force of the last of the nine acts provided for in Article 45 (4) of the Convention, is scheduled for a date early in 1999.

2. Until Europol takes up its activities it cannot enter into relations with third countries. On 19 March 1998, under the United Kingdom Presidency, the Council (JHA) provisionally adopted two important acts in this regard. These acts will become operational when Europol has taken up its activities. The acts in question were Europol's confidentiality regulations and the rules concerning the transmission of personal data by Europol to third States and third bodies. Meanwhile a team of experts from the United States visited the EDU to acquaint themselves with the working of the Unit. A return visit by the EDU to the United States took place in June 1998. A further visit by US officials to Europol took place during the Austrian Presidency.

3. On the basis of its Decision of 4 December 1997 to amplify the definition of traffic in human beings given in the Annex referred to in Article 2 of the Europol Convention, [the Council expanded on 3/4 December 1998 the definition of traffic in human beings to enable Europol to act against the production, sale or distribution of child pornographic material. Furthermore, [...] the Council extended Europol's mandate to cover terrorism.] A further extension of the mandate to cover forgery of money and means of payment is under consideration.
4. To strengthen cooperation between customs administrations and Europol, it was decided that Europol would routinely be represented at meetings of the Council's Customs Cooperation Working Party, and discussions started in that Working Party on a Protocol to the CIS Convention giving Europol, and other international organisations as well, right of access to the third-pillar CIS. Since that cannot in fact happen until the CIS Convention has been ratified by all 15 Member States and Europol has taken up its activities, or until the Commission finalises the technical configuration of the CIS (including electronic means of controlling and restricting access rights) in 1999, the discussions have been provisionally suspended.

CHAPTER VI: Organised Crime and Money Laundering

(Recommendations 26 to 30)

1. During the Luxembourg Presidency discussions on the effectiveness of money laundering measures within the European Union were initiated. The discussion at the MDG pointed to the need to develop initiatives both in the first and in the third pillar. The Commission issued in June 1998 its second report on the 1991 Directive on money laundering and identified a need for action under the first pillar in the following areas especially: extension of the reporting, identification and recording obligations to persons and professions outside the financial sector; improved exchange of information between national reporting centres; extension of the list of predicate offences for money laundering to all serious crimes.

This last measure (extension of the list of predicate offences for money laundering to all serious crimes) has also been addressed by means of the Joint Action on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime, on which the Council reached political agreement on 24 September 1998 [and which was formally adopted on 3/4 December 1998] (and which at the same time takes into account political guideline No 2 of the Action Plan).

An OISIN-funded KPMG study on ways of improving the exchange of information on money laundering concluded that storing of data on money laundering in an EU-wide central database was the most efficient solution and that it was also legally and technically possible.

In the first half of the year an informal expert group was set up within the MDG to analyse the strengths and weaknesses of the existing, very diverse structures in the Member States for receiving and processing suspicious transaction reports; it was able to make use of the extensive work done by the FATF and also conducted fact-finding missions in selected Member States. The expert group's final report recommends in particular further work on a uniform statistical model; facilitating the exchange of information between Financial Investigation Units (FIUs) of the Member States regardless of their internal structure; stringent measures against offshore centres; to raise the level of expertise of all those involved in the fight against money laundering; improvements in the field of asset seizure and confiscation; a more effective cooperation with tax authorities.

The expert group's discussions on the implementation of the Pre-Accession Pact (see chapter I) covered the requirement for applicant countries effectively to implement international money laundering instruments, including the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. The expert group on the implementation of the Pre-Accession Pact will also be briefed on the findings of the informal expert group on money laundering.

A seminar on economic crime held in Baden in November 1998 (funded through the Falcone programme) focused on corruption and money laundering issues – with particular reference to the CCEE – and offshore facilities; the seminar's findings were discussed in the MDG. Conclusions based on the seminar's findings were submitted to the Council (JHA). [These conclusions ...]

Within the Falcone programme, a study into the de facto and de jure position of financial centres and off-shore facilities will also be carried out, so as to dispose of the relevant information to decide on practical measures to address this issue.

2. Further consideration was given to the question of the coverage provided by existing rules on confiscation of the proceeds of crime, with regard to both asset sharing between the States involved and cases of absence of the offender.

The Joint Action on money laundering and on tracing, seizure and confiscation of the proceeds of crime – going further than the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime – obliges Member States to confiscate all proceeds of crime, especially when such proceeds have been converted into another form. The Joint Action also makes further improvements to cross-border seizure and confiscation. Member States' provisions on confiscation in the absence of the offender will be further analysed in the MDG in December. The Austrian Presidency prepared a discussion paper on asset sharing, setting out the possible options. The MDG discussed these options and came to the conclusion that further consideration should be performed on the basis of a proposal for a Joint Action by the Presidency, which was tabled in November 1998.

3. Effective measures to protect Euro banknotes and coins against counterfeiting will have to be taken in the Union in time for the Euro's introduction. Taking into account the possible need for approximation of the Member States' criminal-law provisions, the Working Party on Criminal and Community Law began, at the initiative of the Austrian Presidency, by taking stock of all the national legal provisions; on this basis the first steps towards a common and efficient legal protection of the Euro were taken.

In addition, the European Central Bank, the Commission, Europol and police experts from the Member States are working on suitable means of recording counterfeits and are paving the way for intensive cooperation between the relevant Community bodies and Member State authorities to combat counterfeiting.

4. The Austrian Presidency prepared a Protocol[, adopted by the Council in December 1998,] approximating the money laundering provisions of the CIS Convention and those of the Naples II Convention, so that Member States will henceforth benefit from automatic electronic exchange of money laundering data under the CIS, too.
5. The Commission has submitted a communication on a framework for action on combating fraud and counterfeiting of non-cash means of payment, which includes a proposal for a Joint Action on fraud and counterfeiting of non-cash means of payment. The Working Party on Criminal and Community Law will give this draft its full attention.
6. In 1998 the Commission presided over extensive investigations into excise duty fraud. For example, the Standing Committee on Administrative Cooperation (SCAC) concentrated on the techniques of VAT fraud; the High Level Group on Alcohol and Tobacco Fraud has already submitted its final report to the Directors General for Customs and Indirect Taxation and to the Council (ECOFIN), which approved the report and adopted conclusions. The findings were also discussed in the MDG and identified as an important contribution to a Union anti-fraud policy and a basis for future work (see Chapter II above).
7. Implementation of the taxation section of the Action Plan pressed ahead with a questionnaire basically designed to establish the factual situation in the Member States regarding fiscal fraud, the (non-)deductibility of disbursements for criminal purposes (e.g. corruption) and the exchange of information between fiscal and judicial authorities. An analysis of the responses to the questionnaire will be discussed in the MDG.

OVERVIEW**STATE OF IMPLEMENTATION OF ACTION PLAN RECOMMENDATIONS****(in order of target dates)**

Target date end of 1997	State of implementation
1. Designation of national coordinating bodies for the fight against organised crime	Implemented; consultation of national authorities begun
10. Regular MS/Commission consultations to analyse cases of fraud; relations between Europol and UCLAF	Implemented; consultations on future relations between Europol and UCLAF in progress
11. FALCONE programme	Implemented; many projects in hand
15. Mutual evaluation	Implemented; first round of evaluations in progress
17. Joint Action on participation in a criminal organisation	Implemented; adopted by Council on 3/4 December 1998
19. Designation of national contact points	Implemented; consultation of national authorities begun
22. Creation of MDG	Implemented

Target date mid-1998	State of implementation
2. Collection of data: common standards for collection/analysis	Implemented; new structure for annual report on organised crime; Commission examining pilot studies on collection of publicly available data on organised crime
6. Comprehensive anti-corruption policy	Implemented; Joint Action on corruption in the private sector adopted by Council on 3/4 December 1998
12. Study on protecting exposed professions from organised crime	Commission holding meetings with representatives of European professional organisations; code of conduct in preparation
16. Finalisation of Mutual Assistance Convention; protection of witnesses	[Agreement reached on text of Convention; work on explanatory text and a protocol to the Convention in progress]; Resolution on individuals who cooperate with the judicial process, only partially implemented
20. Establishment of multidisciplinary teams	Partially implemented;
21.(i) Judicial Network	Implemented; network established
21.(ii) Study of relationship between judicial authorities and Europol	Provisionally implemented; issue examined in detail by MDG; will have to return to it at later date
23. Europol to start work	Implemented; Europol Convention entered into force on 1.10.1998; work on commencing activities almost completed

Target date end of 1998	State of implementation
3. Pre-Accession Pact	Implemented; Pre-Accession Pact Experts Group (PAPEG) set up
4. Cooperation with third countries	Implemented; meeting of liaison officers in Moscow; consultations with Transatlantic partners on high-tech crime
5. Cross-pillar study on high-tech crime	Implemented; study completed; rundown of activities in other fora submitted; Union strategy defined
7. Work to ensure that those with organised crime connections can be excluded from tendering processes	Under development; Commission evaluating replies to questionnaire sent to Member States
8. Collection of data on legal persons; data exchange	Under development; studies by Asser Instituut discussed in MDG; Commission examining study on collection of information on legal persons
9. Use of structural funds	Implemented; Commission submitted action plan on urban development with specific prevention aspects
13. Ratification of non-EU Conventions	Partially implemented; ratification situation standing item on Council agenda
14. Ratification of EU Conventions together with protocols and other legal instruments	Partially implemented; ratification situation standing item on Council agenda
18.(i) Member State-Commission cooperation	Implemented; elements of a comprehensive Union policy to combat fraud identified
18.(ii) Liability of legal persons	Partially implemented; Article 3 of the Joint Action on participation in a criminal organisation provides for liability of legal persons; discussion paper by General Secretariat
18.(iii) Periods of limitation	Under development; replies to a questionnaire on the various national systems being examined;
18.(iv) Fraud and counterfeiting	Under development; Commission proposal on cashless payment instruments under discussion; see also Rec. 26
25. Role of Europol; assessment of need for amendment of Convention	Under development; extension of Europol's mandate as regards trafficking in human beings and terrorism; concerning forgery of money and means of payment under discussion
26.(a) Exchange of information on money laundering	Under development; KPMG study and report from an expert working party on the Member States' systems for reporting suspicious transactions under discussion
26.(b) Comprehensive definition of the crime of money laundering	Partially implemented; Joint Action on money laundering and on tracing, seizure and confiscation of the proceeds of crime; Commission proposal for a Directive on money laundering
26.(c) Confiscation of the proceeds of crime regardless of the presence of the offender	Under development; MDG's analysis of replies to questionnaire submitted; follow-up measures under discussion
26.(d) Asset sharing	Under development; Presidency proposal for a Joint Action
26.(e) Money-laundering reporting obligations	Under development; Commission proposal for a Directive on money laundering
26.(f) Money laundering on the Internet; electronic payment instruments	Under development; Commission examining study; Commission proposal for a Directive on e-money
26.(g) Preventing abuse of cash payments	Under development; discussions in money-laundering contact committee
26. (last paragraph) Economic and commercial counterfeiting; euro counterfeiting	Under development; initiative to harmonise definition of crime of euro counterfeiting; Commission Green Paper on economic and commercial counterfeiting
29. Legislation against fiscal fraud	Under development; initial survey of situation in the Member States
30. Legislation against abuse of off-shore centres	Under development; expert seminar organised by Presidency

Target date mid-1999	State of implementation
17. Examination of the extent to which harmonisation/approximation of Member States' laws would contribute to the fight against organised crime	Under development

Target date end of 1999	State of implementation
24. Europol cooperation with third countries	Under development; rules agreed in principle
27. Priority for money laundering and financial crime in discussions with applicant countries	Under development
28. Study of scope for developing international cooperation on tracing, seizure and confiscation of the proceeds of crime	Partially implemented; Joint Action on money laundering and tracing, seizure and confiscation of the proceeds of crime
