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LIMITE

EUROJUST 5

ADDENDUM TO COVER NOTE

from Permanent Representative of Portugal, Mr Vasco VALENTE
: Permanent Representative of France, Mr Pierre VIMONT
Permanent Representative of Sweden, Mr Gunnar LUND
Permanent Representative of Belgium, Mr Frans VAN DAELE
date of receipt : 13 July 2000
to Secretary-General of the Council of the European Union, Mr Javier SOLANA

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Subject : Communication from the Governments of the Portuguese Republic, the French Republic, the Kingdom of Sweden and the Kingdom of Belgium
– Initiative by the Governments of the Portuguese Republic, the French Republic, the Kingdom of Sweden and the Kingdom of Belgium seeking the adoption by the Council of a Decision setting up a Provisional Judicial Cooperation Unit

Delegations will find hereafter the explanatory note from the Portuguese Republic, the French Republic, the Kingdom of Sweden and the Kingdom of Belgium concerning the above initiative.

DRAFT DECISION SETTING UP A PROVISIONAL JUDICIAL COOPERATION UNIT

EXPLANATORY NOTE

I. General comments. Content and aim of the Decision

This Decision is based directly on the conclusions of the Tampere European Council, which expressed its commitment to reinforcing the fight against serious organised and transnational crime while adopting an efficient and comprehensive approach.

Referring to the need to combat without further delay and as swiftly as possible the threat which major crime poses for the freedom and rights of the Union's citizens, and with a view to making cooperation between Member States' authorities as productive as possible during investigations of cross-border criminal activities, the Decision offers the possibility of putting in place rapidly a Provisional Judicial Cooperation Unit with a view to contributing, in the short term, to improved coordination between national prosecuting authorities, in particular by supporting criminal investigations in organised crime cases, and by helping to simplify the execution of letters rogatory. Furthermore, on the basis of experience gained in this area, the members of the Provisional Judicial Cooperation Unit will be able to assist the Council and the Member States in the negotiations on setting up the Eurojust Unit by providing them with information acquired through the experience of practitioners.

II. Article 1

Depending on the systems in force in the various Member States, the person dispatched to perform the liaison duties may be a prosecutor, a magistrate or a police officer of equivalent competence.

Generally speaking, the liaison duties assigned to the members of the Provisional Judicial Cooperation Unit are, inter alia, those assigned to the liaison magistrates in the Joint Action of 22 April 1996. The use of the system of liaison magistrates to put in place the Provisional Judicial Cooperation Unit draws on the experience already gained in this area and is based on the Joint Action of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union and, more specifically, on Article 1 thereof which provides for the possibility of multilateral arrangements.

To this may be added the range of possibilities offered by the European Judicial Network, which operates on the basis of the Joint Action of 29 June 1998. Indeed, the Provisional Judicial Cooperation Unit has close ties with the European Judicial Network and the General Secretariat of the Council of the European Union. Furthermore, the Member States may give the person dispatched to the Provisional Judicial Cooperation Unit all the prerogatives provided by their national law.

Provided that coordination is necessary between two or more Member States, the liaison magistrates (or equivalent police officers) of the Provisional Judicial Cooperation Unit contribute to the coordination of investigations and proceedings. They perform this task on the basis and within the framework of the national legislation of their Member State of origin. More generally, they facilitate judicial cooperation by providing legal and practical information and by developing contacts between judicial authorities.

Finally, drawing on the experience gained in cooperation and coordination, and insofar as this is necessary, the members of the Provisional Judicial Cooperation Unit provide the Member States and the Council with all the elements likely to benefit the negotiation and adoption of the act establishing the Eurojust Unit.

III. Article 2

The creation of the Provisional Judicial Cooperation Unit is the first stage in the establishment of the Eurojust Unit. Since the aim of the Decision setting up the Provisional Judicial Cooperation Unit is to support and assist the setting up of the Eurojust Unit, it will cease to apply as soon as the Eurojust Unit enters into force, while continuity will be maintained as far as possible between the Provisional Judicial Cooperation Unit and the Eurojust Unit.