COUNCIL OF
THE EUROPEAN UNION

Brussels, 4 December 2000

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LIMITE

CATS 70

OUTCOME OF PROCEEDINGS

Of :	Consultation Meeting between the Troika of the Article 36 Committee and the Council of Europe
On :	13 November 2000 in Brussels

The eighth of a series of consultation meetings (started on 25 March 1997) between the Troika of the Article 36 Committee (Presidency, incoming Presidency, European Commission and the Council Secretariat) and a Council of Europe delegation was held on 13 November 2000, at the EU Council headquarters in Brussels.

The list of participants is contained in Appendix I to this report.

The agenda for the meeting is set out in Appendix II to this report.

1. Opening of the meeting

Mr Masurel welcomed the Council of Europe representatives and he highlighted the fact that both the EU and the CoE shared many common interests. He also said it was important to strengthen the level of cooperation between the two bodies and this was being facilitated by the participation of CoE experts in seminars arranged by the EU. In addition, he referred to the very close links between the Presidency and the Council of Europe.

2. Financial crime and corruption

The EU side indicated that combating financial crime was a major priority for the French Presidency. It also highlighted a number of initiatives that had been introduced in that field. In particular, reference was made to the draft Framework Decision on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime. One of the effects of the new Framework Decision will be to require EU Member States not to make or uphold reservations in respect of certain provisions of the 1990 CoE Convention and it was suggested that this was an approach that might also be pursued within the CoE as a whole. In addition, the EU side mentioned that discussions were taking place on a draft new convention to improve mutual assistance in criminal matters, with particular reference to the fight against organised crime, the laundering of the proceeds of crime and financial crime. This draft instrument was designed to supplement the 1959 CoE and EU Conventions on mla and it would further limit the grounds on which a Member State could refuse a cooperation request from another Member State.

The CoE side welcomed the initiatives the EU side had referred to and said they demonstrated clearly that there was a high level of convergence between the work being undertaken by the EU and the CoE. In addition, it reported that 32 ratifications had been made to the 1990 CoE Convention and that consideration was being given to a possible protocol to address confiscation issues, in particular. The PC-R-EV Committee, which evaluated non-FATF CoE States in the field of money laundering, was operating well and would complete its first round of evaluations in spring 2001. That Committee was also working with the FATF in connection with non-cooperative jurisdictions. The CoE side also considered that the draft EU Framework Decision could provide a model for its Member States.

The CoE side indicated that the Multidisciplinary Group on Corruption (GMC) had almost concluded its work on the implementation of the broad plan to combat corruption adopted in 1996. The CoE Criminal Law Convention on Corruption had already been ratified by 5 States and the corresponding Civil Convention by 2 States. The Group of States against Corruption (GRECO) had recently been joined by the USA and it had 26 members. The Group had commenced its first evaluations in January 2000 and they would conclude in December 2001.

The CoE side also drew attention to the Octopus Programme under which assistance is provided by the EU Commission and the CoE for countries in transition in order to combat corruption and organised crime. It welcomed the usefulness the Commission had attached to this project and stressed the need to ensure that appropriate EU financial support would continue to be made available.

The Commission said that it was aware of the importance of the Octopus Programme and that the question of the level of its financial commitment had to be considered in the context of the overall demands being made on resources.

3. Judicial cooperation in criminal matters

The EU side highlighted the significant progress that had been made in relation to the establishment of Eurojust with a view to facilitating judicial cooperation. It was expected that a provisional unit would be set up by the end of the year. Arrangements had also been made with the incoming Swedish Presidency to give priority to the task of establishing Eurojust as a permanent body.

In addition, the EU side referred to the steps it was taking in the field of mutual recognition and enforcement of criminal judgements. This was an area that would also be pursued under future EU Presidencies. In particular, specific attention was being devoted to the adoption of appropriate measures relating to mutual recognition for the freezing of assets. A general programme to cater for mutual recognition was also under consideration.

The EU side mentioned that the explanatory report for the recent EU mla Convention was expected to be finalised shortly. It also drew attention to its recent initiative for the establishment of an EU network for bodies involved in judicial training in the Member States. In addition, the Commission said that it was taking steps to develop proposals on cyber crime through a specific communication on that topic.

The CoE side noted that it was very close to finalising the draft Second Protocol to the European Convention on Mutual Assistance and every effort was being made to make sure that it would be compatible with the relevant work carried out by the EU. Moreover, the question of establishing a reflection group to assess the CoE conventions in the penal field was under consideration. The CoE was also working on the role of prosecutors in the criminal justice system and a Recommendation on that topic had been adopted by the Council of Ministers on 6 October 2000. A conference on public prosecution in Europe in the 21st Century had been held in Strasbourg in May. Arising out of the conclusions of the first Pan-European Conference for Public Prosecutors held in Caserta (Italy) in September 2000, the CoE was examining the setting up of a Liaison Group of Public Prosecutors to organise contacts and exchanges of information. That Group could have links with Eurojust. In addition, the CoE side considered that it would be useful if the EU proposals for the establishment of a judicial training network could also extend to the candidate countries.

The CoE side drew attention to the standard-setting Recommendation on the freedom of exercise of the profession of lawyer adopted by its Council of Ministers on 25 October 2000. It was also the case that, arising from the 1999 CoE Conference of Ministers of Justice held in Moldova, a new consultative committee of European judges had been put in place. The conclusions of the 2000 Conference of Ministers of Justice in London had provided the basis for an extensive programme of future work which would focus on measures designed to increase public confidence in judges and the administration of justice. That programme will be taken forward by a special CoE committee dealing with matters related to the efficacy of justice.

In addition, the CoE side highlighted the importance of enhancing the cooperation that takes place between the EU and the CoE in civil matters. In that respect, it felt that there were many opportunities for improved cooperation and coordination between the two bodies and their relevant committees. The EU side welcomed this suggestion and said it would examine how it could be implemented.

In response to an inquiry from the EU side, the CoE side said that it was the intention that the draft Convention on Cyber-crime should be completed by the end of the year. It also indicated that it could be useful if the EU were to adopt a second Common Position in connection with that work. The EU side stressed that, while it was seeking an EU consensus on the draft instrument, it had to be understood that certain difficulties remained in that regard. The CoE side also acknowledged that certain important issues were still outstanding in so far as some questions were concerned and said that it was working to resolve those matters as quickly as possible.

4. Police cooperation

The EU side reported that the mandate of Europol was being extended to money laundering in general and that consideration was being given to its extension to cyber crime. Moreover, certain aspects of the new EU Convention on mla envisaged a possible role for Europol. The arrangements for the establishment of the new European Police College were also at an advanced stage and were expected to be approved at the forthcoming JHA Council. In its initial stage, the College would operate on a network basis and the permanent seat had yet to be determined. Periodic meetings of EU police chiefs were also under way and they had held their second meeting in Paris.

The CoE side referred to the programme of work being carried out by its Committee on Police Ethics and Problems of Policing, in cooperation, in particular, with countries in transition. Furthermore, the need to protect citizens' rights and the new international threats against security had been discussed at a high level meeting of Ministers of the Interior in Bucharest in June. The conclusions of that meeting were being pursued. Additionally, work would be carried out to give effect to the conclusions of the high level multilateral meeting organised by the CoE in Strasbourg on 5 and 6 November 2000 concerning Pan-European cooperation in the fight against organised crime and corruption respecting the principles of States governed by the rule of law.

The CoE side also expressed the view that it would be very useful if Europol and the European Police College were to cooperate with the relevant bodies within the CoE. The EU side agreed with that idea and it also mentioned that the Article 36 Committee had asked the EU Police Cooperation Group to examine certain aspects of what could be done at EU level in terms of providing police personnel for areas in crisis outside the Union.

5. Cooperation with Russia

The Commission recalled the discussions it had undertaken with the Russian authorities in which it had underlined a number of issues that should be pursued. They had included judicial cooperation as well as the importance of having the important CoE penal law instruments ratified by Russia. The question of common definitions in the criminal law field had also been explored. While these matters would be followed-up, it was still clear that Russia had problems in the money laundering area and that the Russian authorities should be expected to do more in that regard. One particular development to be welcomed was the fact that arrangements were being made for the EU liaison officers to meet more often with the Russian authorities.

The CoE side referred to the cooperation it had already undertaken with the EU in relation to Russia. This had covered, inter alia, the ratification of CoE conventions. It was also involved in a programme for the training of Russian judges and further developments were in the pipeline that would cover, for example, the legal professions. In addition, the CoE was working to promote reform of the penal system and the adoption of more effective anti-laundering measures in Russia.

The EU side suggested that a special joint meeting between the EU and the CoE might be arranged for the purpose of developing a joint strategy with Russia. The CoE side thought that such a meeting would be very useful.

6. South Eastern Europe Stability Pact

The CoE side recalled that it had been very active in the justice and home affairs area with reference to the Stability Pact. A significant development that had taken place had been the recent adoption by Working Table 3, on 5 October 2000, of the Stability Pact Initiative against organised crime in South-eastern Europe (SPOC). Both the CoE and the EU had been involved in the initiative and it covered a very broad range of areas such as organised crime in general, money laundering and corruption. Through its extensive PACO Programme, the CoE would also promote improvements in the administration of justice and in many other areas under the Stability Pact.

7. Other matters

The EU side mentioned that it was examining the question of its approach to Global Forum II on Corruption which would take place in the Hague in 2001. It was likely that, drawing on the results from that meeting, work would be undertaken on the global convention against corruption. These were matters of common interest to both the EU and the CoE and it would be useful if they could cooperate in connection with relevant issues.

The CoE side indicated that arrangements were being made for a conference on cyber crime in Hungary and would be coordinated with the EU.

8. Swedish Presidency

The incoming Swedish Presidency said that it would seek to maintain and strengthen the level of cooperation between the EU and the CoE. During its six month term, it would strive to meet the deadlines set by the European Council in Tampere and would continue the work that had already been initiated in areas such as economic crime, judicial cooperation and mutual recognition of criminal judgements. Crime prevention would be a particular priority of the Swedish Presidency and it would bear in mind the extensive experience of the CoE in that field.

The CoE side welcomed the commitment of the incoming EU Presidency to cooperation with the CoE. It had built up a large body of expertise in areas that were also receiving attention from the EU and it would be useful for the EU to take account of that resource.

9. Conclusion of the meeting

Mr Masurel said that the meeting had been very worthwhile. In particular, a considerable amount of valuable information had been exchanged on a wide range of topics of mutual interest.

Mr De Vel thanked the EU side for hosting the meeting. He acknowledged the excellent cooperation the CoE had experienced under the French Presidency and he looked forward to its continuation under the incoming Swedish Presidency.

ANNEX I

Participants

Article 36 Committee

Presidency

* Hervé Masurel, Préfet, France
* Daniel Lecrubier, SGCI, Paris
* Emmanuel Barbe, Permanent Representation, Brussels

Incoming Presidency

* Dan Eliasson, Ministry of Justice, Sweden
* Petra Klämfeldt, Ministry of Justice, Sweden

General Secretariat of the Council of the European Union

* Hans G. Nilsson, Head of Judicial Co-operation Division (DG H)
* Fergus O'Callaghan, DGH

European Commission

* Wenceslas de Lobkowicz, Head of Unit, DG JHA
* Aristotelis Gavriliadis, Principal Administrator, DG JHA

Council of Europe

* Guy De Vel, Director General of Legal Affairs (DG I)
* Mr Edwin Kilby, Vice-chair CDCJ
* Hans-Jürgen Bartsch, Head of the Department of Crime Problems
* Magaret Killerby, Head of Private Law Department
* Peter Csonka, Deputy Head of the Economic Crime Division
* Tomas Ouchterlony, Head of the Council of Europe Liaison Office in Brussels

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ANNEX II

DRAFT AGENDA

1. **Opening of the meeting**

2. **Financial crime and corruption**
   - **current state of play and new initiatives**

3. **Judicial and police cooperation with Russia -**
   - **current state of play and new initiatives**

4. **Judicial cooperation in criminal matters**
   - **current state of play and new initiatives**

5. **Police cooperation**
   - **current state of play and new initiatives**

6. **The Stability Pact for South-East Europe: justice and home affairs aspects**
   - **corruption**
   - **money laundering**
   - **organised crime**
   - **victims**
   - **EU collective evaluation of States applying for membership**

7. **Other business**

8. **Close of the meeting**