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THE COUNCIL

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LEGAL SERVICE OPINION

Subject: Financing of expenditure entailed by the provisions of Titles V and VI of the Treaty on European Union (CFSP and JHA)

The Council Legal Service has been asked to look into the various aspects of financing the expenditure entailed by the provisions of the Treaty on European Union relating to common foreign and security policy (CFSP) and co-operation on justice and home affairs (JHA). Such financing is provided for in Articles J.11(2) and K.8(2) respectively of the Treaty on European Union (TEU). As the two provisions are identical this study dealing with CSFP also applies to JHA co-operation.

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The provisions of the Treaties (TEU and EC Treaty)

(a) Article J.11(2) of the TEU states:

"Administrative expenditure which the provisions relating to the areas referred to in this Title entail for the institutions shall be charged to the budget of the European Communities.

The Council may also:

- either decide unanimously that operational expenditure to which the implementation of those provisions gives rise is to be charged to the budget of the European Communities; in that event, the budgetary procedure laid down in the Treaty establishing the European Community shall be applicable;

- or determine that such expenditure shall be charged to the Member States, where appropriate in accordance with a scale to be decided."

(b) The provisions of the above paragraph on the charging of this expenditure to the budget are reflected in the new 2nd paragraph of Article 199 of the Treaty establishing the European Community.

"Administrative expenditure occasioned for the institutions by the provisions of the Treaty on European Union relating to common foreign and security policy and to co-operation in the fields of justice and home affairs shall be charged to the budget. The operational expenditure occasioned by the implementation of the said provisions may, under the conditions referred to therein, be charged to the budget."

This note will deal first with administrative expenditure and then with operating expenditure.

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2.1.2. Under the above Article J.11(2), the Council is free to choose between two ways of dealing with this expenditure:

- either deciding unanimously that it is to be charged to the budget of the European Communities;

- or determining that it is to be charged to the Member States, where appropriate in accordance with a scale to be determined.

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2.3.3.2. As for the structure of the budget, Article 19(1) stipulates that:

"The Commission section shall consist of the:

– a "Part A" for the staff and administrative expenditure of that institution;

– a "Part B" for operating expenditure, divided into as many subsections as are required.".

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