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THE EUROPEAN UNION**

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From : COREPER  
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Subject : Draft - Conclusions of the joint ECOFIN/JHA Council meeting on 16 October  
2001

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Delegations will find attached the draft conclusions of the Council on:

- the progress made and measures to be taken in the fight against terrorism, money laundering and financial crime, and
- the protection of the euro against counterfeiting

as approved by Coreper on 10 October 2001.

**Conclusions of the joint ECOFIN/JHA Council meeting and of the Member States meeting  
within the Council on 16 October 2001.**

**Policy debate on the progress made and measures to be taken in the fight against terrorism,  
money laundering and financial crime**

1. The Member States have today signed the draft Protocol to the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States. This Protocol represents an important improvement of the co-operation within the Member States in the area of fighting economic and financial crime. The Member States undertake to ratify this Protocol as soon as possible, and at the latest by the end of next year.
2. [The Council will adopt as soon as possible, in codecision with the European Parliament, the Directive which aims at amending the Directive of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering. This new Directive on money laundering, broadening the prohibition of money laundering to cover not only drug trafficking but also other serious crimes and extending the obligations of the Directive to certain non-financial activities and professions, including lawyers and accountants, is of major importance when combating organised crime.]<sup>1</sup>
3. The Council reconfirms its firm intention to adopt, as soon as possible after receiving and considering the Opinion of the European Parliament, the draft Framework Decision on the execution in the European Union of orders freezing assets or evidence, the scope of which must be extended to terrorist-related crimes.

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<sup>1</sup> To be reviewed in the light of ongoing conciliation.

4. The Council reaffirms its intention to pay particular attention to terrorism in the framework of the draft Directive on insider dealing and market manipulation (market abuse) in its examination of the recently presented Commission proposal on which political agreement should be sought as soon as possible.
5. The Member States meeting within the Council have noted that all Member States will have signed the United Nations Convention for the Suppression of the Financing of Terrorism by the end of October. They have also decided to ratify this Convention and all other relevant Conventions to prevent and combat the financing of terrorism, as soon as possible, and to take the implementing measures necessary.
6. The Council welcomes the fact that the Commission has updated the list annexed to the Council Regulation (EC 467/2001) of 6 March 2001 prohibiting the export of certain goods and services to Afghanistan strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan, in order to freeze the assets of persons identified by the Sanctions Committee established within the framework of UN Security Council Resolution 1267.
7. In line with the conclusions of the joint ECOFIN/JHA meeting on 17 October 2000, the Council reiterates, as recommended by the Financial Action Task Force on money laundering (FATF), that the Member States' financial institutions shall give special attention to businesses and transactions with persons, including companies and financial institutions, with the Non Co-operative Countries and Territories (NCCT). The list of NCCTs was updated on 7 September 2001 and is now as follows; the Cook Islands, Dominica, Egypt, Guatemala, Grenada, Hungary, Indonesia, Israel, Lebanon, the Marshall Islands, Myanmar, Nauru, Nigeria, Niue, the Philippines, Russia, St Kitts and Nevis, St Vincent and the Grenadines and Ukraine.

8. The Council notes that the FATF found, on 22 June 2001 and repeated on 7 September 2001, that the Philippines has failed to enact significant anti-money laundering and called on its members to implement counter-measures against the Philippines. It has been reported that the Philippines on 29 September 2001 has enacted an anti-money laundering legislation. The FATF has accordingly informed all their members to suspend the application of counter-measures to the Philippines, pending verification that the anti-money laundering legislation has in fact been enacted. The FATF has also noted that Nauru enacted an anti-money laundering Act on 28 August 2001. However, this new legislation is considered to have several deficiencies and does not adequately address the major money laundering problem in Nauru. It was therefore decided by the FATF that its members should implement counter-measures against Nauru unless appropriate legislative amendments are enacted by 30 November 2001.

At the joint ECOFIN/JHA meeting on 17 October 2000 the Member States undertook to implement immediately, in concert and concomitantly, the counter-measures decided by the FATF and if necessary adapt their legislation. The measures recommended by FATF are;

- a) stringent requirements for identifying clients and enhancement of advisories, including jurisdiction specific financial advisories, to financial institutions for identification of the beneficial owners before business relationships are established with individuals or companies from these countries;
- b) enhanced relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with such countries are more likely to be suspicious;
- c) in considering requests for approving the establishment in FATF member countries of subsidiaries or branches or representative offices of banks, taking into account the fact that the relevant bank is from an NCCT;
- d) warning non-financial sector businesses that transactions with entities within the NCCTs might run the risk of money laundering.

The Member States meeting within the Council have decided to apply, in concert and concomitantly, the counter-measures above against the Philippines and Nauru, if necessary, with immediate effect. Where an adoption of legislation is necessary to enable the counter-measures to take effect, the Member States, meeting within the Council, undertake to ensure that their legislation will enable them to apply the counter-measures as from 1 January 2002.

9. The Council reaffirms the importance of the revision of the 40 Recommendations of the FATF and to broaden the FATF mandate to include cases linked to terrorism. The Council requests the Presidency to organise systematic co-ordination meetings in order to permit a common position among the Member States, taking account of the legal instruments it has adopted.
10. The Council emphasises the urgency of taking strong action against the financing of terrorism in line with Security Council Resolution 1373/01. The Council decides to use the FATF mechanism for co-ordinated counter-measures against NCCTs also in relation to those countries that harbour, support or provide safe havens to terrorists and their means of financing. The Council urges the Commission to examine swiftly proposals to ensure that the Member States take efficient action against such countries in concert and concomitantly.
11. The Council emphasises strongly the importance for all Member States, the Candidate Countries and for dependent and associated territories of Member States to implement fully the Union acquis on the fight against terrorism, money laundering and financial crime, the 40 FATF Recommendations on money laundering and to take appropriate measures to be able to implement the counter-measures recommended by FATF. In particular, the Council welcomes the commitment of the Hungarian Government to improve anti-money laundering standards and urges the speedy adoption by the Hungarian Parliament of the measures required to meet all the FATF recommendations. The Council welcomes the Commission's intention to reinforce the scrutiny of the Candidate Countries' anti-money laundering activities in the Peer Reviews that are now under way.

12. The Council welcomes the work already done on a model agreement on mutual legal assistance with NCCTs and instructs the competent group to speed up the work. After developing the model agreement, the Council intends to rapidly authorise the Presidency, on a case by case basis and assisted by the Commission as appropriate, to open negotiations with the NCCTs, including on the basis of and in accordance with the procedure laid down in Articles 24 and 38 of the Treaty on European Union.
13. The improvement of internal banking monitoring and research systems is of the utmost importance in order to improve the identification of transfers of funds used for financing terrorist acts. The "Customer due diligence for banks" recommendations developed by the Basel Committee on Banking Supervision, which came into force in October 2001, give guidance in the area of customer identification and ongoing account monitoring, which can also be used for this purpose. Therefore this recommendation, together with the FATF recommendations, should become a standard in all credit institutions in the European Union.
14. The Council reconfirms the importance of close co-operation between Financial Intelligence Units (FIU) of the Member States in respect of exchanging information on suspicious transactions including those related to terrorism. The adoption of the Decision on exchange of information between FIUs at the joint ECOFIN/JHA Council meeting on 17 October 2000 was a significant step in elaborating mutual co-operation between Member States' FIUs. Consequently the Member States have to ensure a uniform implementation of the Decision, including providing for appropriate and protected channels of communications between FIUs. The Council confirms the necessity to enhance the communication between FIUs and calls upon the Member States to reinforce the existing system and to examine whether to elaborate a system for exchange of relevant information by automatic means and asks the Commission to explore the possibilities of a Community funding for such an automatic system.

15. The Council takes note of the Commission's report examining in particular the possibility of establishing minimum transparency criteria for various types of legal entities (such as trusts, trust funds and foundations), for the purpose of identifying the beneficial owners more easily. The Council invites the Commission to accelerate its work in this area in order to allow both institutions to determine priorities and actions to be taken by the Commission before the end of the year, taking into account the Commission's ongoing review of EU company law.
16. The EU Member States urge the IMF to accelerate its efforts, in close contact with the Financial Stability Forum, to assess the adequacy of supervision in offshore financial centres and to provide the necessary technical assistance to strengthen their integrity. In addition, they ask the IMF and the World Bank to take further steps to take into account the anti-money laundering standards in their policy advice and programs.
17. The Council notes the Commission's preliminary report on the work undertaken concerning the monitoring of cross-border cash flows and calls upon the Commission to present its final report before 31 December 2001.
18. The Council took note of the reports from the Commission and the Presidency and of the interventions by the Member States on actions to combat the financing of terrorism. The Council urges the Commission and the Member States to work closely together in this field in order to produce a fully integrated report at regular intervals.
19. The Council calls upon the Commission to analyse the counter-measures undertaken by the Member States in the fight against money laundering via Internet and new electronic payment systems, taking into account the work already made by the FATF. The Council invites the Commission to present a report on its analysis. The Member States are invited to provide the Commission with the relevant information in a timely fashion.

## **Policy debate on the protection of the euro against counterfeiting**

1. The Council calls upon the Member States to adopt the appropriate measures that have to be taken before and during the introduction of the euro. The Council recalls the Community legislation already approved, Council Regulations (EC) 1338/2001 and 1339/2001, defining the measures necessary for euro notes and coins to circulate in the proper conditions and to prevent and monitor counterfeiting. The Council emphasises the importance of increased protection against counterfeiting in connection with the introduction of the euro.
2. The Council has the firm intention to adopt, before the end of the year, the draft Council Decision on the protection of the euro against counterfeiting and the draft Framework Decision amending the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, after receiving and considering the Opinion of the European Parliament. A report on the implementation by the Member States of the Council Framework Decision of 29 May 2000 will be submitted to the Council in the near future.
3. The Council welcomes the measures and other initiatives undertaken by Member States to make the fight against money laundering more effective on the occasion of the introduction of the euro. The Council invites Member States to remain vigilant about the effectiveness of those measures, to collaborate closely with other Member States and if necessary to take additional steps.