



**COUNCIL OF  
THE EUROPEAN UNION**

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**REV 1**

**LIMITE**

<b>JAIEX</b>	<b>113</b>
<b>RELEX</b>	<b>1111</b>
<b>ASIM</b>	<b>115</b>
<b>CATS</b>	<b>103</b>
<b>JUSTCIV</b>	<b>289</b>
<b>PROCIV</b>	<b>143</b>
<b>CIVCOM</b>	<b>491</b>

**REVISED NOTE**

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from :            Presidency

to :                JAI-RELEX Working Party (JAIEX)

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Subject:         Towards a complementarity approach by the Union and the Member States to the external dimension of JHA policy in the EU

                    - Synthesis of contributions

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**I. Introduction**

The European Council in its conclusions of December 2009 stated that *“The Union and the Member States must act with solidarity, coherence and complementarity”*. The Stockholm Programme has formulated a clear task in this area: *“The European Council underscores the need for complementarity between the Union and Member States’ action. This will require a further commitment from the Union and the Member States. The European Council therefore asks the Commission to report on ways to ensure complementarity by December 2011 at the latest.”*<sup>1</sup>

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<sup>1</sup> The Stockholm Programme - An Open and Secure Europe Serving and Protecting Citizens. Official Journal of the European Union 2010/C 115/34.

Within the JAIEX group, work has been initiated by sending out a questionnaire on the issue of complementarity to gather delegations' comments and opinions on the issues set out with a view to presenting a position of the Working Group. Consultations were held on this matter with the members of other working parties and committees, in particular with CATS, SCIFA, COSI support group, the Civil Law Committee and CivCom.

## II. Background

The external dimension of the EU's policy in the area of freedom, security and justice is strongly emphasised in the Stockholm Programme and several other strategic documents, such as the Internal Security Strategy. There is an increasing need for improvement in the effective achievement of strategic objectives in this area as well as to ensure that the coordination of activities facilitates the better use of resources. It is essential to better integrate these policies into the general policies of the European Union and to ensure their coherence with other aspects of EU foreign policy.

The Stockholm Programme also calls for greater complementarity between the EU and its Member States' action in the external dimension of JHA policies. This is reiterated in the Stockholm Programme's objectives for the external dimension of JHA which should be considered as guidelines for action undertaken within external relations in the area of freedom, security and justice.

As regards the obligations of the EU Member States, the Stockholm Programme stated that:

- *The Member States will increase further the exchange of information between themselves and within the Union on multilateral and bilateral activities.*
- *The Member States should coordinate with the Union so as to optimise the effective use of resources.*

As regards the Union, the Stockholm Programme stated that:

- *The Union has a single external relations policy.*
- *The Union will engage in information, monitoring and evaluation, inter alia, with the involvement of the European Parliament.*

### III. Towards a report by the Commission

Member States consider that appropriate measures need to be taken to ensure the effective coordination of the EU and its Member States' activities in the domain of the external dimension of JHA.

Relevant initiatives might encompass a comprehensive set of instruments aiming at:

- improving policy coordination between all stakeholders,
- improving the exchange of information between Member States, EU institutions and agencies on matters of importance for external cooperation in JHA,
- ensuring a more efficient use of funds earmarked for purposes related to cooperation with third countries in areas of security and migration management,
- building public awareness on the significance of the external dimension of JHA.

The report, to be prepared by the Commission as set out in the Stockholm Programme, is a great opportunity for strengthening the effectiveness of all our efforts aimed at developing cooperation with third countries in justice, migration, mobility and security matters.

The Member States considered that a strategic discussion in preparation for the Commission's report on complementarity was needed in order to identify the main issues at stake and the views of the Member States thereon. The views and opinions of the Member States collected in this paper are to be considered as a form of support or a 'food for thought' for further work related to the aforementioned Commission's report.

The EU and the Member States have in the past experienced cases of duplication of activities, therefore better coordination in undertaken actions would be beneficial for the Union, the Member States and for third countries. Attention should be paid to recent initiatives aimed at ensuring consistency between the different areas of EU external action and the area of freedom, security and justice, such as the Council Conclusions on enhancing the links between internal and external aspects of counter-terrorism. Actions undertaken by JAIEX should take also into account and should not overlap with specific activities undertaken under the EU policy cycle, especially coordination mechanisms introduced by COSI for certain priority regions<sup>2</sup>.

JAIEX recommends that coordination, transparency and information sharing will be ensured at the stage of planning, executing and evaluating activities by the MS and the EU in third countries.

During preliminary discussions within JAIEX, many avenues were mentioned for better coordination between committees, agencies' activities, liaison officers meetings, ad-hoc steering groups and joint advisory teams in crisis situations as well as information exchange through the Heads of Missions meeting and with the EU delegations and bilateral MS embassies. All of the above could contribute to better coordination of actions undertaken by different actors.

The instruments for coordination of actions undertaken by the MS and the EU which have already been developed should be made widespread, when appropriate and taking into account the particular traits of a given policy area. For example, the EU policy cycle for organized and serious international crime<sup>3</sup> would offer such an opportunity.

One of the possible ways to ensure better coordination and information sharing at all the stages mentioned above, and which could contribute to better complementarity, is to consider coordination in two different frameworks:

- a) at the so-called "Brussels-level" (or MS-EU level);
- b) in the third country in question.

Ad a)

At this first level, it is suggested to hold strategic discussions in JAIEX (thus including MS, the Commission, EEAS, agencies and possibly in cooperation with other Council Working Parties), and without prejudice to each actor's own competences. These strategic discussions might lead to the updating of activities and priorities of JHA in certain regions and countries. In this case, their coherence with EU foreign policy and its priorities would be ensured.

Active participation of EU agencies' representatives (presentations and written contributions when appropriate) in relevant fora (Ministerial meetings, EU committees, JAIEX other geographical and thematic working groups) would be also of added value. Through this they could signal to the Council working parties any problems and new trends that appear in cooperation with third countries at their level.

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<sup>2</sup> doc. 15292/11

<sup>3</sup> doc. 15358/10

The strengthening of information sharing should be continued, and it is here that JAIEX should play a substantial role. The means by which this could be achieved should be further studied but it could involve *inter alia* continuing to produce a regular info-document that could be at a later stage enriched with information on Ministers of Interior and/or Justice relevant meetings abroad, major events within multi and bilateral cooperation frameworks, etc. If this objective is reached, this document would represent a general overview of all actions undertaken by MS and by the EU in the field of the external dimension of JHA and therefore become highly valuable.

Strengthening internal information sharing between different ministries in the MS was also signaled as a must. A network of JHA external relations (JAIEX) focal points (of JHA Counsellors based at the MS Permanent Representations) could be established to facilitate a more fluent and efficient exchange of information concerning specific JHA external relations matters between Brussels and Capitals. The existing network of Counter-terrorism focal points could serve as a model in this regard. The list of JAIEX focal points could be managed and periodically updated by the Council Secretariat.

The use of a matrices for selected regions, i.e. where a lot of projects and programmes are done, could also be considered further, possibly as a tool to identify duplications and perform gap analysis. The matrices should be prepared in close cooperation with the Commission and EEAS.

Ad b)

At the second level, the objective would be to strengthen coordination in the third country in question with the bilateral embassies of the MS, liaison officers and EU delegations, and possibly with the involvement of the authorities of the third country, as appropriate.

To this end, the periodical organization of information and coordination meetings of all projects should be considered, possibly with the involvement of external donors.

The strengthening of JHA expertise in EU delegations, especially in strategic partner countries, could also be considered, *inter alia* to facilitate the coordination and execution of JHA projects and deployment of missions, assessment, identification of gaps, in order to ensure the complementarity of projects, and also provide the consultations with non - EU actors where appropriate.