



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 December 2011

18579/11

**CATS 129
COMIX 839**

OUTCOME OF PROCEEDINGS

of: CATS

on: 24 & 25 November 2011

Subject : Outcome of proceedings of CATS on 24 & 25 November 2011

1. Adoption of the provisional agenda

The agenda has been approved.

2. SIS II

- State of play

doc. 17104/11 CATS 115 SIS-TECH 124 SIRIS 115 COMIX 737

doc. 17118/11 CATS 116 SIS-TECH 125 SIRIS 116 COMIX 738

doc. 16621/11 CATS 108 SIRIS 110 SIS-TECH 123 COMIX 708

doc. 17174/11 CATS 119 SIS-TECH 126 SIRIS 117 COMIX 739

The Committee had an exchange of views on the basis of the Presidency note, the SIS Task Force Report and the notes and communications from DE, AT and the Commission. The Presidency signalled its intention to report to Council taking account of the outcome of the discussions. The Presidency also underlined the necessity for clarity and transparency as well as the need for continued monitoring of the project.

3. Danish Presidency priorities

- Presentation by incoming Presidency

The Danish delegation gave a brief outline of the priorities for the CATS for the first semester 2012.

CATS (Interior - after COMIX)

1. Adoption of the provisional agenda

The agenda has been approved.

2. Implementation of Prüm Decision – orientation debate

doc. 16757/11 JAI 825 CATS 109 DAPIX 146 ENFOPOL 395 ENFOCUSTOM 134

The Committee's debate focused, on the one hand, on support for non-operational Member States and, on the other hand, on lessons to be drawn both on drafting and on implementation of future legislation which would be as technically demanding as the "Prüm Decisions". Delegations which underlined the importance of the Prüm automated data exchange for effective law enforcement voiced concerns about the unsatisfactory state of implementation. They invited Member States lagging behind to intensify their implementation efforts. However, delegations admitted that the Prüm implementation presented complex challenges. Against this backdrop, the set up of the Ad hoc Group on Information Exchange, now DAPIX, was deemed an appropriate solution. It was recommended to draft future legislation implying such extensive technological information exchange in line with the IMS. Furthermore, several delegations welcomed the specific support offered by the operational Member States and, moreover, by the Mobile Competence Team (MCT) and the future helpdesk briefly presented by DE and Europol respectively. The Commission also welcomed the MCT as a good example of mutual support and was confident that Europol tackle the specific tasks without increasing its budget. The Commission reiterated its readiness to continue providing ISEC funding for the implementation of the Prüm Decisions but reminded Member States of not having used those funds to the extent possible. In this context, delegations that applied for ISEC funds stressed the need for a more facilitated access to EU funding.

Before submitting similar legislation, a proper impact assessment and clear estimates as well as information about specific funding programs were deemed crucial to allow for the allocation of human and financial resources at national level. Furthermore, a common project management with detailed reporting and monitoring was recommended.

3. Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

- Way forward on financial matters

doc. 16918/11 GENVAL 119 AVIATION 249 DATAPROTECT 129 CODEC 2027

The Presidency presented its note. The Commission indicated that, whilst it had understanding for the Member States' concerns, it had no budget line to fund the establishment of the passenger information units and was opposed to the insertion of an article in the draft PNR Directive imposing financial obligations to that effect. It was, however, willing to use existing financial funds to support Member States in the establishment of the passenger information units. According to the Commission, running costs of any system set up further to EU legislation, in principle have to be borne by the Member States.

A vast number of Member States stated that they were in favour of an article which would imply a binding commitment on the part of the Commission to allocate the necessary financial means from the EU budget to that end. A few delegations also referred to other questions related to the draft directive, such as data protection, proportionality and the added value of any PNR system as compared to existing systems for collecting data (API Directive) or analysing data (Europol).

4. Future of the cooperation between customs and law enforcement authorities

doc. 16762/11 CATS 110 ENFOCUSTOM 136 ENFOPOL 396

- Report on the activities of the Customs Cooperation Working Party

(1 January - 30 June 2011)

doc. 14744/1/11 REV 1 ENFOCUSTOM 110

+ COR 1

- **Draft Council Resolution on the future of customs cooperation in the enforcement area**

doc. 16761/11 ENFOCUSTOM 135

CATS approved the 6-month report on the activities of the CCWP during the Hungarian Presidency (1 January - 30 June 2011) and took note of the draft Council Resolution on the future of customs cooperation in the enforcement area following the explanatory remarks of the CCWP chair who briefly outlined the main issues addressed by the draft Resolution. CATS held an orientation and strategic debate on the closer cooperation between customs and other law enforcement authorities, including under the Naples II Convention. Delegations, while agreeing that the core discussion would be held in COSI and at working party level (CCWP/LEWP), welcomed the opportunity to provide their preliminary views. They shared the view that customs make a significant contribution to the process of monitoring goods entering the EU together with the other law enforcement authorities, however that cooperation still can be reinforced. Some delegations pointed out that the different competences and structure of Member States' customs authorities should be taken into account. Europol expressed the view that being a multiagency organisation, its strategic and operational assistance is devoted to all law enforcement authorities including customs. However it is also determined to provide them with a more dedicated support, comprising the possibility to use Europol's database for the purposes of JCO, to benefit from pan-European analyses and host operational meetings at its premises, and also urged Member States to facilitate customs access to the Secure Information Exchange Network Application (SIENA).

5. Towards a complementary approach by the Union and the Member States to the external dimension of JHA policy in the EU

doc. 16127/11 JAIEX 113 RELEX 1111 ASSIM 115 CATS 103 JUSTCIV 289 PROCIV 143 CIVCOM 491

The Committee discussed the Presidency note on complementarity. While supporting its objectives in general, several delegations (CY, ES, FR, PT, NL) commented to the note. The Presidency would take these comments into consideration before a final discussion in JAIEX on 2nd December.

6. European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes

- Presentation of recent works

doc.17125/11 COPEN 327 EUROJUST 193

doc. 17126/11 COPEN 328 EUROJUST 194

Following the Presentation made by the Presidency and by the Secretary to the Network, CATS took note of the conclusions and the report of the 11th meeting of the EU Network for Genocide, crimes against humanity and war crimes as set out in docs 17125/11 COPEN 327 EUROJUST 193 and 17126/11 COPEN 328 EUROJUST 194 respectively

7. Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime

**doc. 16849/11 DROIPEN 139 JUSTCIV 310 ENFOPOL 399 DATAPROTECT 126
SOC 989 FREMP 104 CODEC 2013**

On the two issues set out in 16849/11, CATS confirmed the approach suggested by the Presidency.

8. Proposal for a Directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest

doc. 16633/11 DROIPEN 136 COPEN 312 CODEC 1949

doc.17130/11 CATS 117 DROIPEN 140 COPEN 329 CODEC 2090

The Committee was given information by representatives of the Secretariat of the Council of Europe (CoE) on the opinion on the proposed Directive on access to a lawyer, which it had provided on request by the LIBE Secretariat of the European Parliament. The representatives of the CoE Secretariat also answered questions posed by some delegations, and they indicated that once the Council would have a more mature text, the CoE Secretariat would be ready to have a look again at the compatibility of such text with the European Convention on Human Rights, as interpreted in the case-law of the European Court of Human Rights.

- 9. Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters**
Doc. 17392/11 COPEN 337 EJM 169 EUROJUST 199 CODEC 2156)

CATS examined issues put forward by the Presidency in doc 17392/11 COPEN 337 EUROJUST 199 EJM 169 CODEC 2156. The outcome of the CATS meeting, set out in note 17531/11 COPEN 341 EUROJUST 203 EJM 172 CODEC 2189, will be presented to COREPER for endorsement and further discussions.

- 10. Follow-up to the fourth round of mutual evaluations regarding the practical implementation of the European arrest warrant and corresponding surrender procedures between the Member States – report from the Presidency**
doc. 15815/1/11 REV 1 CRIMORG 190 COPEN 283 EJM 138 EUROJUST 164

The Presidency presented its draft report, indicating the background thereto. It informed CATS that the Council would be asked to take note of the report.

- 11. AOB**
- Memorandum of Understanding between the European Commission and Eurojust
doc 15962/11 COPEN 288 EUROJUST 168 CATS 100

CATS took note of the information by the Presidency and by the representatives of the Commission and of Eurojust concerning the Memorandum of Understanding.