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from: General Secretariat
to: COREPER/Council

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Subject: Draft Council Conclusions on access to Eurodac by Member State police and law enforcement authorities as well as Europol

1. Under the Hague Programme (No. 2.1.), better exchange of information, including by means of more extensive access to existing EU information systems, is one of the ways in which the aim of strengthening security is to be achieved.

2. To combat terrorism and other serious crimes it is inevitable that police and law enforcement authorities have access, within the scope of their powers, to the most comprehensive and up-to-date information possible.

3. Already in March 2004, in the light of the terrorist attacks in Madrid, the European Council invited the Commission in its Declaration on Combating Terrorism\(^1\) to explore the creation of synergies between existing and future information systems as SIS II, VIS and Eurodac in

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\(^1\) Doc. 7906/04 JAI 100 ECOFIN 107 TRANS 145 RELEX 123 ECO 73 PESC 208 COTER 20 COSDP 142, No. 5, p. 7.
order to exploit their added value in the prevention and fight against terrorism and to bring forward proposals to enable national law enforcement agencies to have access to EU systems.

4. The biometric information contained in Eurodac may be under specific circumstances the only information available to identify a person suspected of committing or having committed an act of terrorism or other serious crime.

5. Having this in mind, the Commission in its Communication to the Council and the European Parliament from November 24th 2005 considered the access of authorities responsible for internal security to Eurodac as part of the further development of existing systems.¹

6. Germany intends to introduce a proposal for a Council Decision concerning access to Eurodac by Member State’s police and law enforcement authorities as well as Europol. Entry into force of such a Council Decision requires an amendment to Council Regulation (EC) No. 2725/2000 of 11 December 2000 concerning the establishment of “Eurodac”², which is subject to the Commission’s exclusive right of initiative.

7. The Presidency therefore submitted a proposal for Council conclusions on access to Eurodac by Member States’ police and law enforcement authorities. This was discussed and broadly agreed upon by the Police Cooperation Working Party.

8. The Article 36 Committee in its meeting of 22-23 May 2007 endorsed this proposal subject to a reservation of Belgium and a parliamentary reservation of Denmark and Sweden.

9. Therefore, COREPER is invited to submit the conclusions as contained in annex to the Council for approval.

¹ Doc. 15122/05 CATS 82 ASIM 61, No. 5.2.3.
Proposal for Council conclusions on access to Eurodac by Member States’ police and law enforcement authorities as well as Europol

The Council

- considers that, in order to fully achieve the aim of improving security and to enhance the fight against terrorism, access under certain conditions to Eurodac, for the purpose of consultation, should be granted to Member States' police and law enforcement authorities as well as Europol in the course of their duties in relation to the prevention, detection and investigation of terrorist offences and other serious criminal offences;

- stresses that any access to Eurodac should be subject to strict compliance with the rules governing the protection of personal data;

- therefore invites the Commission to present as soon as possible a proposal based on Title IV of the Treaty establishing the European Community, designed to amend Council Regulation (EC) No. 2725/2000 of 11 December 2000 concerning the establishment of “Eurodac”1 to enable Member States' police and law enforcement authorities as well as Europol to have under certain conditions access to Eurodac for the purpose of consultation in the course of their duties in relation to the prevention, detection and investigation of terrorist offences and other serious criminal offences;
