COUNCIL OF
THE EUROPEAN UNION

Brussels, 16 November 2006

13605/06

LIMITE

PV/CONS 54
JAI 493

DRAFT MINUTES

Subject: 2752nd meeting of the Council of the European Union (JUSTICE and HOME AFFAIRS), held in Luxembourg on 5/6 October 2006

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1 Information relating to the final adoption of Council acts which may be released to the public is contained in Addendum 1 to these minutes.
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1. Adoption of the agenda
13349/06 OJ/CONS 54 JAI 477 COMIX 784

The Council adopted the above agenda.

2. Approval of the list of "A" items
13350/06 PTS A 45

The Council approved the "A" items listed in 13350/06. Items 4 and 15 were approved on Friday 6 October 2006.

Addendum 1 to these minutes gives information on items 4, 5, 6, 16, 17 and 25 on that list.

Moreover, the document reference under item 13. should read as follows:

Item 13: 12895/I/06 REV 1 COMER 152 CHINE 37 ASIE 79 OC 664
12516/1/06 REV 1 COMER 144 CHINE 36 ASIE 72 OC 627.

3. Hague programme review
(public debate)

The Commission presented its Communications. After a debate, the Presidency concluded that the issues would be dealt with by several preparatory bodies.

4. Proposal for a Council Regulation establishing a Rapid Response and Preparedness Instrument for major emergencies (renamed "Civil protection financial instrument")
(political agreement on certain questions)
13182/06 PROCIV 189 FIN 428
8436/05 PROCIV 51 FIN 143

The outcome of proceedings of the Council is contained in 13626/06 PROCIV 195 FIN 449.
5. SIS II

a) Implementation
13102/1/06 REV 1 SIRIS 170 COMIX 772
13514/1/06 REV 1 JAI 485 SIS-TECH 99 SIRIS 176 COMIX 796
12836/06 SIRIS 165 COMIX 754
12379/06 SIRIS 158 COMIX 710

b) Legal basis
13361/1/06 REV 1 SIRIS 175 SCHENGEN 89 COMIX788 CODEC 1010
5709/10/06 REV 10 SIRIS 22 SCHENGEN 10 CODEC 71 COMIX 86
+ COR 1 + COR 2 +ADD 1
5710/7/06 REV 7 SIRIS 23 SCHENGEN 11 EUROPOL 54 EUROJUST 29 COMIX 87
+ COR 1 + COR 2 + COR 3
+ ADD 1
8082/1/06 REV 1 SIRIS 72 SCHENGEN 32 CODEC 311 COMIX 339
+ COR 1

c) SIS 1 + in the new Schengen countries
12583/06 SISTECH 93 COMIX 724
13514/1/06 REV 1 JAI 485 SIS-TECH 99 SIRIS 176 COMIX 796

The Council confirmed the conclusions of the Mixed Committee at Ministerial level on 5 October 2006.

6. Council Conclusions on Reinforcing the Southern External Maritime Borders
13559/06 JAI 489 MIGR 149 FRONT 199 COMIX 801

The Council adopted the conclusions set out in 13559/06.

7. Second Report from the Commission to the Council on visa waiver reciprocity with certain thirds countries: presentation and first exchange of views

The Council took note of the presentation by the Commission regarding its Second Report on visa waiver reciprocity and had an exchange of views. The Presidency concluded that the Community should continue to work towards achieving full visa waiver reciprocity with those third countries for which it remained outstanding.
8. **Consultation concerning the possibility of initiating negotiations on visa facilitation and readmission agreements with Moldova:** information by the Commission

The Commission presented the outcome of the consultations on the question of initiating negotiations on visa facilitation with Moldova. The Council welcomed the Commission's intention, in the light of the outcome of those consultations, to submit negotiating mandates for the purpose of beginning negotiations on such agreements.

9. **Council Framework Decision on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union** (political agreement on certain questions): state of play
   13080/1/06 REV 1 COPEN 99
   + COR 1

The Council examined certain questions concerning the proposal, in particular in relation to social rehabilitation and third country nationals. It was decided to refer the proposal back to the preparatory bodies with a view to reaching a general approach on the proposal at the December 2006 JHA Council.

10. **European Union Agency for Fundamental Rights**: state of play
    (public deliberation)

The Council took note of the state of play on this file and reiterated the importance of the establishment of the European Union Agency for Fundamental Rights and of keeping the deadline set by the June 2006 European Council for the establishment of this Agency (1 January 2007).

It was indicated that most of the outstanding issues had been dealt with in a satisfactory way under the Austrian Presidency. One outstanding issue, the extension of the scope of the European Union Agency for Fundamental Rights to include also 3rd Pillar issues, remains still open.
During the ensuing discussion on this question, the Presidency called on Member States to help in finding a compromise solution to this question and in this spirit it announced that it would submit, in the near future, some options to that end for the consideration of the Permanent Representatives Committee.

11. **Amended proposal for a Directive of the European Parliament and of the Council on criminal measures aimed at ensuring the enforcement of intellectual property rights**
(discussion on specific questions)
(public deliberation)
13103/06 DROIPEN 59 PI 48 CODEC 958

The Council discussed the issues set out in document 13103/06 and came to the following conclusions:

- Bearing in mind the principle of subsidiarity, further scrutiny is needed with regard to the need of criminal measures at EU level to protect intellectual property rights.
- The discussions on the substantive provisions of the instrument should continue while awaiting the evaluation of Directive 2004/48/EC and the Ruling of the Court of Justice in case C-440/05 which would give guidance on the question of Community competence in adopting criminal law measures.
- The discussions on the substantive provisions of the instrument should be based on a scope of the instrument limited to the intellectual property rights harmonised in Community legislation, in line also with the principles included in the conclusions of the informal meeting in Vienna on 13/14 January 2006.
12. **Draft Framework Decision on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings**
   (political agreement)
   13101/1/06 REV 1 COPEN 100
   + ADD 1

   The text presented by the Presidency was generally acceptable to delegations. However, some scrutiny reservations remained and further work was needed concerning the Recitals to the proposal and a provision seeking to meet concerns expressed by one delegation. These issues were referred back to the preparatory bodies with a view to reaching full agreement on the proposal as soon as possible.

13. **A.O.B.**
   - **European Conference on active participation of ethnic minority youth in society**

   The Danish delegation informed the Council about the outcome of the European Conference on the Active participation of Ethnic Minority Youth in Society held in Copenhagen on 7-8 September 2006, organised by Denmark in conjunction with the Netherlands.