ADDENDUM TO DRAFT MINUTES

Subject: 2411th Council meeting (Justice, Home Affairs and Civil Protection), held in Brussels on 28 February 2002

The information from the minutes which is contained in this document is not confidential and may therefore be released to the public.
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**"A" ITEMS**

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Agenda items released to the public concerning the final adoption of Council acts

"A" items (list: 6495/02 PTS A 8)

When finally adopting the "A" items relating to legislative acts, the Council agreed to enter the following in these minutes:

Item 6. Council Decision setting up Eurojust with a view to reinforcing the fight against serious organised crime
5358/02 EUROJUST 1
  + COR 1 (el)
  + COR 2 (nl)
  + COR 3 (fi)
  + COR 4 (fi)
  + COR 5 (en)
  + REV 1 (sv)

The Council adopted the above Decision. (Legal basis: Article 31 and Article 34(2)(c) of the Treaty on European Union).

Council statements

1. Re Article 3(3)

"The Council states that when Eurojust gives its support to investigations and prosecutions in accordance with Article 3(3) it attaches great importance to satisfactory co-operation between the competent authorities and the Commission in full accordance with their respective powers."

2. Re Article 11(1)

"Eurojust's rules of procedure will lay down the arrangements for the Commission's participation in those of Eurojust's proceedings that come within its areas of competence."

3. Re Article 13(2)

"The Council agrees to adopt, as a matter of urgency and in accordance with the principles laid down in Article 101(3) of the Schengen Convention, no later than 15 June 2002, arrangements whereby the national members of Eurojust will have access to certain data in the Schengen Information System, in particular those referred to in Articles 95 and 98 of the Schengen Convention."
4. **Re Article 24(3)**

"The Council declares that where a claim has been made in relation to the processing of personal data by Eurojust, Eurojust and the Member State concerned shall examine the matter and ensure that no individual suffers loss because of the alleged lack of clarity of any responsibilities."

5. **Re Article 26(1)**

"The Council invites Europol and the Provisional Judicial Cooperation Unit (pro-Eurojust) to take the necessary steps, in accordance with the Europol Convention, to prepare an agreement on cooperation with Eurojust including the exchange of personal data. The content of that agreement will be submitted to the Council for its approval when the Decision setting up Eurojust is adopted, but before its formal adoption and as soon as that is legally possible. The Council notes, however, that the question of relations between Europol and Eurojust will have to be examined further in order to determine what arrangements would take the best account of those aspects not yet covered by the Europol Convention, in particular:

- the exchange of analyses and information between Europol and Eurojust at the request of either;
- cooperation on the practical level in order to support joint investigation teams;
- coordination for initiatives to ask national authorities to carry out investigations and coordinate prosecutions, in accordance with the rules of procedure of the State requested and within the respective areas of competence of Europol and Eurojust."

6. **Re Article 30(1)**

"The Council agrees that the authorising authority defined in Article 28(6) may, provided that investigative secrecy is respected, authorise Eurojust staff to give evidence at the request of the competent authority of a Member State."

7. **Re Article 34**

"The Council agrees that the Eurojust budget shall be established in conformity with the financial perspective of the European Union for the period 2002 to 2006."

8. **Statement by the Governments of the Member States, meeting within the Council, relating to Article 28(4)**

"The Governments of the Member States, meeting within the Council, will ensure that any national member elected to any position within the framework of Eurojust can carry out his duties."
9. Statement by the German delegation re Article 13(2)

"The German delegation states that this provision should not be restricted to access by the national members of Eurojust but that an overall package should be sought."

10. Commission statement re Articles 4(1)(b), second indent, and 26(3)

"The protection of the Community's financial interests is a responsibility shared between the Community and the Member States and it is important to stress in this connection that at Treaty level, Article 280 of the EC Treaty constitutes the specific legal basis for cooperation with the competent national authorities (Article 280(3) EC) or taking the necessary measures for preventing and combating fraud and any other illegal activity affecting the Community's financial interests (Article 280(4) EC). It is in this framework in particular that close and regular cooperation between the European Anti-Fraud Office (OLAF) and the national law-enforcement authorities, on the one hand, and between the Commission (OLAF) and Eurojust, on the other hand, should be guaranteed."

Item 7. Council Decision concerning control measures and criminal sanctions in respect of the new synthetic drug PMMA
15330/01 CORDROGUE 79 + COR 1

The Council adopted the above Decision. (Legal basis: Article 5(1) of Joint Action 97/396/JHA).

6328/02 EURODAC 2

11. **Statement by the French delegation**

"The French delegation is committed to the objective of Eurodac, which has been set up to collect, transmit and compare the fingerprints of applicants for asylum in the interests of the effective application of the Dublin Convention; it will take particular care to see that Eurodac is operated in accordance with the principles laid down in this Regulation."

12. **Statement by the Commission**

"The Commission reiterates that in order to make Eurodac a success, close cooperation between the Central Unit and the users will be indispensable. To that end, the Commission will continue to cooperate closely with national services charged with operating Eurodac and will regularly consult with them on all technical issues of common interest."


(a) by the Government of the French Republic

6182/02 AGRI 27

+ COR 1 (da,en,it,pt,sv)

(b) by the Government of the Italian Republic

6183/02 AGRI 28

The Council adopted the above Decisions, with the Swedish, Danish, Spanish, Netherlands and United Kingdom delegations abstaining. (Legal basis: third paragraph of Article 88(2) of the Treaty establishing the European Community).

13. **Commission statement**

"The Commission in general has a negative attitude towards operating aids. Unilateral state aid measures which are simply intended to improve the financial situation of producers but which in no way contribute to the development of the sector, and in particular aids which are granted solely on the basis of price, quantity or unit of production, are considered to constitute operating aids which are incompatible with the common market. Furthermore, by their very nature, such aids are also likely to interfere with the mechanisms of the common organisations of the market."
The new wine market organisation has only been in force since 1 August 2000. It reflects the common position of Member States as to what kind of financial support is sufficient and necessary for the wine market to function. It is worrying that already now Member States resort to granting additional national aids of a type that can usually not be authorised by the Commission because they are pure operating aids which do not bring about any structural improvement in the sector.

There is a serious risk of distortion of competition between Member States if such a state aid is authorised without any check or obligation whether these aids are linked to structural measures. There will be pressure on the other Member States to follow suit, and also grant aids. The incentive for farmers to undertake structural reform under the wine market organisation will decrease.

The Commission reserves the right to ask the Court of Justice for the annulment of the Council’s decision."