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NOTE 

from : Presidency 
to : Article 36 Committee 

Subject : Council conclusions on Europol participation in joint investigation teams (JITs) further to the entry into force of the Protocol of 28 November 2002 amending the Convention on the establishment of a European Police Office (Europol Convention) and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol 

After the Amsterdam Treaty, Article 30(2)(a) of the Treaty on European Union called upon the Council to enable Europol to facilitate and support the preparation, and to encourage the coordination and carrying out, of specific investigative actions by the competent authorities of the Member States, including operational actions of joint teams comprising representatives of Europol in a support capacity. The Protocol of 28 November 2002 amending the Europol Convention established the legal framework for such participation of Europol in joint investigation teams (JITs). On 29 March 2007 this protocol will enter into force. 
The rules contained in the Europol Protocol address various issues: the role of Europol officials in these teams, the exchange of information between Europol and the JIT, as well as non-contractual liability for damage caused by Europol officials participating in these teams.
The Europol Protocol also allows Europol to ask the competent authorities of the Member States to conduct and coordinate investigations in specific cases. This includes JITs set up in accordance with Article 1 of the Framework Decision of 13 June 2002 on joint investigation teams/Article 13 of the EU Convention of 29 May 2000 on mutual assistance in criminal matters between the Member States, as far as those teams are investigating criminal offences for which Europol is competent under Article 2.

Europol has already taken relevant initiatives aiming at the enhancement of the JITs' concept among practitioners. In particular, Europol and Eurojust played a significant role in supporting the setting up of the network of national experts on JITs by taking the lead in the organisation of the first two meetings of the network.

Following the decision taken by the Article 36 Committee on 8 July 2005, all Member States have appointed national experts on JITs with a view to enhancing the use of this investigative tool and to sharing information on difficulties and on best practices experienced in the establishment of JITs.

The experts have met twice, respectively in 2005 and 2006, under the aegis of Eurojust and Europol. Conclusions and recommendations have been drawn up at the end of each meeting. The meeting held in 2006 was organised by Europol. It focused on practical experiences in establishing JITs whereat conclusions on practical issues to consider when setting up a JIT were drawn up. On that occasion, Europol and Eurojust produced a guide on EU Member States legislation on JITs and introduced the project to set up a Web page containing information on JITs.

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1. Doc. 11037/05 CRIMORG 67 ENFOPOL 88
2. Docs. 15227/05 CRIMORG 151 ENFOPOL 176 EUROJUST 81 COPEN 193 and 15023/06 CRIMORG 127 ENFOPOL 201 EUROJUST 53 COPEN 120
The Presidency would like to seize the opportunity of the entry into force of the Europol Protocol to invite Europol to inform delegations on the kind of support Europol can offer to Member States. At the same time, the Presidency would like to encourage Member States to invite Europol, whenever possible and useful, to participate in JITs, as far as those teams are investigating criminal offences for which Europol is competent under Article 2. In order to allow it to carry out its tasks, Europol should also be provided with an overview of all ongoing JITs.

To that end, the Presidency has submitted the attached draft Council conclusions to the Multidisciplinary group on organised crime (MDG) which at its meeting of 28 March 2007 approved them. The Article 36 Committee is invited to confirm this approval with a view to forwarding them to Coreper/Council as an I-A-item.
Council conclusions of

on Europol participation in joint investigation teams

The Council notes with satisfaction that the Protocol of 28 November 2002 amending the Convention on the establishment of a European Police Office (Europol Convention) and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol entered into force on 29 March 2007.

This Protocol establishes the legal framework for participation of Europol in joint investigation teams.

The Council calls upon Member States to invite Europol, whenever possible and useful, to participate in joint investigation teams they plan to set up, in so far as such teams are investigating or may investigate criminal offences for which Europol has competence and recommends that Member States inform Europol of ongoing or planned joint investigation teams.