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NOTE

from :	General Secretariat
to :	Article 36 Committee
Subject :	Conclusions of the second meeting of the national Experts on Joint Investigation Teams

On 10 November 2006, the second meeting of the experts on JITs was convened by Europol, in collaboration with Eurojust.

Experts and practitioners from 22 Member States, representatives from OLAF, Eurojust, Europol, the Commission and General Secretariat of the Council attended the meeting.

The agenda focused on practical experiences in establishing JITs, on the presentation of the guide on EU Member States legislation on JITs compiled by Europol and Eurojust. The project to set up a webpage containing information on JITs was also introduced.

Four workshops were held on the process of drafting the agreement, on identifying the advantages of and the need for a JIT, on practical issues to consider when setting up a JIT, on elements of support (national and international) when initiating a JIT.

At the end of the meeting, conclusions/recommendations were drawn up by the *rapporteurs* of the workshops on the basis of discussions held. Participants adopted the conclusions thereof which are attached in the annex.

The Second Meeting of the National Experts on Joint Investigation Teams
10 November 2006

CONCLUSIONS / RECOMMENDATIONS

In relation to the agreement setting up a JIT

- The Member States that have not implemented the Framework Decision or Article 13 of the 2000 MLA Convention should do so as soon as possible. PL and ES reported that they are trying to set up JITs with IT.

- The EU Model Agreement provides a good basis to draft specific agreements. The participants in the workshops discussed the idea of drafting a more detailed model agreement - particularly in relation to the practical arrangements - but given that the judicial systems in the EU differ so much, it would be impractical to cover every issue and every problem that could arise. It is recommended to:
  - prepare a handbook/guide which would list possible practical issues to be dealt with, which the parties could use as guidelines. The scope of this manual could be extended at a later stage.
  - follow the ES/FR example and establish on a bilateral basis a model agreement which takes into account the specific needs of the Member States involved.
  - It is important to share experiences - even sharing copies of agreements - in order to learn from each other.

- Parties drafting JIT agreements should discuss in advance whether the agreement should be disclosed to defence lawyers or other parties.

- The JIT agreement should always contain provisions dealing with the methods for gathering evidence so that it will be admissible as evidence before the courts in all Member States involved.

- JITs should be set up as quickly as possible within the legal possibilities that are available. Lengthy and time consuming approval procedures should be avoided as much as possible.

- The following issues should be incorporated into the agreement (or, in any case, discussed in advance):
  - jurisdiction, i.e. proposed location of the trial
  - methodologies for handling sensitive information
  - funding, costs and asset-sharing
  - seconded members' powers and permitted weapons
  - time limit for investigation
  - language

On how to identify the need for a JIT

- The need for a JIT should be identified on a case by case basis:
  - Is it a complex case?
  - Are more Member States involved?
  - Are other, more simple instruments suitable as well? *(Could it be done without a JIT?)*
  - Will the investigation require complicated information and intelligence management?
  - Will it avoid numerous MLA requests?

- The need for cost-benefit analysis:
  - availability of resources (staff, funding)
  - bureaucratic constraints
  - the time saved during the operation of the JIT should outweigh the additional time required to set it up

- It is recommended that Member States undertake test cases to acquaint themselves with the concept of a JIT (advantages without the disadvantages).

- View the JIT concept as an opportunity rather than as a problematic exercise.

On practical issues when setting up a JIT

- It should be possible for police officers and judicial authorities to work together in the JIT considering the different national systems of investigation and prosecution.

- Competences in the participating states must be clarified on the very first day. The key issue is: Can we achieve what we want?

- One person should be in charge of the investigation in each participating state. Staff from the other participating states may be present and give advice when operations are carried out.

- The use of each others' offices, computers and other facilities should be enhanced in order to facilitate the work and reduce costs

On elements of national and international support when setting up a JIT

- National guidelines/directives for practitioners dealing with JITs should be issued by each Member State. They should define how the establishment of JITs at national level should be handled (procedure, parties involved, responsibilities, decision makers, etc.)

- National co-ordination between the authorities involved in the process of the establishment of a JIT is crucial in order to speed up the procedure. The national experts on JITs should have a principal role by facilitating contacts between the different national authorities concerned.

- The national experts on JITs must be informed about the projects to set up JITs at a very early stage, so that they can provide practitioners with their expertise and advice with a view to facilitating the preparatory work.

- The experts on JITs should undertake any useful initiative at national level to perform their task of raising awareness among practitioners of the possibilities offered by the JIT concept possibilities, including the legal framework and best practices for setting one up.

- Setting up of JITs should be a bottom-up process on the initiative of investigating/prosecuting authorities; nevertheless, Eurojust, Europol and OLAF are also in the position to identify suitable investigations for JITs.

- It is strongly recommended that experts on JITs and the practitioners involved should inform Europol, Eurojust and OLAF, where appropriate, about any JIT project. Following the setting up of a JIT, feed back forms could be completed via the national experts in order to establish a pool of knowledge. The feedback forms could be forwarded to Europol and Eurojust.

- The experts on JITs look forward to the eventual implementation of a Commission financial Program including the possibility to fund JITs.

- The experts welcome the work carried out by Europol and Eurojust on the creation of the "Guide on EU Member States' legislation on Joint investigation Teams" and the creation of a webpage on the Network. The webpage will be available in the respective organisations' website.

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