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NOTE

from:	General Secretariat
to:	delegations
Subject:	Conclusions of the 8th Annual meeting of the National Experts on Joint Investigation Teams (18 - 19 October 2012, the Hague)

Delegations will find in the Annex the conclusions from the 8th Annual meeting of the National Experts on Joint Investigation Teams held on 18 and 19 October 2012 in the Hague.

Conclusions of the eighth meeting of National Experts on Joint Investigation Teams (18 and 19 October 2012, The Hague)

On 18 and 19 October 2012, the 8th Annual Meeting of the National Experts on Joint Investigation Teams (JITs), co-organised by Eurojust and Europol with the support of the JITs Network Secretariat, took place at Europol's premises.

The meeting was attended by Joint Investigation Teams experts and practitioners from the vast majority of the Member States, by representatives of Eurojust, Europol, the European Anti-Fraud Office (OLAF), the European Police College (CEPOL), the European Judicial Training Network (EJTN), the European Commission and the General Secretariat of the Council of the EU.

Practitioners and JITs Network speakers shared their experiences gained with JITs on a variety of issues, ranging from legal to operational. Some delegates referred to the increasing use of JITs, in their Member States. Other attendees shared best practices and knowledge of paper-based and web-based instruments developed in their own Member States for the purpose of evaluating JITs.

The focus of the 8th Meeting was the *Evaluation of JITs*, as discussed in depth in two workshops: *Evaluation of a JIT* and *Evaluation of the usage of JITs at EU level*.

The purpose of the *Evaluation of a JIT* workshop, chaired by Eurojust, was to assess the existing methods in performing JIT evaluation, with a special emphasis on the best practice evaluation. It also aimed at exchanging views and ideas among experts on how best practice evaluation should be performed, including matters such as (a) purpose of the evaluation; (b) methods for evaluation; (c) aspects of the JIT to be considered; (d) addressees of the results of the evaluation; (e) subsequent use of the obtained information. Participants were also invited to reflect and exchange views on the roles that Eurojust, Europol and other EU bodies can play in this activity.

The purpose of the *Evaluation of the usage of JITs at EU level* workshop, chaired by Europol, was to discuss the benefits of, and requirements for, establishing an evaluation at EU level of the JIT instrument as a tool of international judicial and police cooperation. The participants discussed and formulated some recommendations on how such a macro-evaluation could further enhance the awareness of the JIT concept, expand the sharing of best practices between the practitioners and initiate the further development of the JIT tool. The results of such an evaluation could be used by the practitioners to improve the setting up and functioning of JITs, guide Eurojust and Europol to continue to expand their supportive role and assist the EU and national legislators in further developing the legal regime surrounding the JIT concept.

During the plenary session, the delegates were informed about the support offered by the JITs Funding Project managed by Eurojust, the SIENA system run by Europol, operational support to JITs both through Europol's operational centre and operational rooms and through the Eurojust coordination centre, as exemplified by a JITs case.

The attendees had the opportunity to learn from CEPOL and EJTN about training events and training possibilities in the area of JITs.

The JITs Network Secretariat updated the audience on its latest work and developments, with a special focus on the web-based JITs platform.

The outcome of the discussions held in the two workshops is found in the Annex.

Presentation of findings, conclusions and recommendations of the two workshops

Workshop I – Evaluation of a JIT

Participants agreed that evaluation of JITs is useful and necessary because it helps to identify and prevent judicial and practical obstacles. Evaluation is also an important method for improving the efficiency of JITs.

Participants agreed that the evaluation of JITs provides different results depending on the status of the JIT: during the operational phase, evaluation helps to determine and overcome problems encountered; at the end of the JIT, evaluation provides an overview of the lessons learnt and the results achieved. Post-trial evaluation could also add value to the overall assessment of JITs, as it provides important input on judicial follow-up.

Need for evaluation

The importance of carrying out evaluation of JITs was outlined with regard to the added value it provides for future JITs. Most of the experience gathered to date is on performing operational evaluation, but participants agreed that best practice evaluation dealing with the JIT as a tool, and not concerning the underlying case, should also be performed to outline the results of the work of the JIT and to assess obstacles and best practices. Special attention shall be given to whether the JIT fulfils expectations (what was achieved by the JIT that could not have been achieved otherwise).

Participants exchanged views on which entities shall perform the evaluation. They agreed that depending on the type of evaluation and national laws, the actors involved might vary significantly – i.e. law enforcement officials, prosecutors, investigative judges, national experts. In any case, the outcome should be submitted to the JITs Network Secretariat, possibly through the national experts.

Methods for evaluation

Participants discussed different methods to perform evaluation, such as informal meetings and special forms. They agreed that a standard process is essential to reduce the workload, to achieve consistency and to allow for identification of common obstacles and best practices. One possible approach to achieve consistency of results is for Eurojust and Europol to prepare a template/standard form for the practitioners.

Content of possible form/checklist

Participants agreed that the questions in the standard form should be kept open and general, but still allow for a comparison of the results. Some of the issues to address in the evaluation form could be:

- Added value of the JIT to the investigation;
- Practical and legal issues encountered, *e.g.* admissibility of evidence and disclosure of information;
- Support provided by Eurojust and Europol to the JIT;
- Judicial follow up to the JIT, *i.e.* the results from court proceedings.

The role of the JITs Network Secretariat in performing evaluation

Participants shared ideas on the role of the JITs Network Secretariat and concluded that the JITs Network Secretariat should play an important role in the collection and dissemination of the evaluations. It was also suggested that the JITs Network Secretariat provide a platform for collecting the relevant evaluation results in a structured way, creating a “bank of knowledge”.

The role of the national experts in performing evaluation

The key role of the national experts in the evaluation of JITs and in the dissemination of the results was discussed. Participants agreed that national experts should act as a link between the teams and the JITs Network Secretariat for the best practice evaluation. National experts could also assist in the operational evaluation, supporting the process mostly in the internal aspects.

Conclusions and recommendations

Workshop participants reached the following conclusions, which were subsequently presented at the meeting:

- The evaluation of JITs from an operational aspect is strongly recommended. At a later stage, a further evaluation should be conducted by evaluators from Member States in relation to judicial follow-up, if practicable;
- The JITs Network Secretariat, together with Eurojust and Europol, should develop a suggested template and consult the experts on it;
- The JIT national experts should strengthen their role and involvement in these evaluations, either by providing support or in the collection and forwarding of evaluations to the JITs Network Secretariat, in whatever manner they deem suitable;
- The JITs Network Secretariat should routinely evaluate the submissions, making them available to the experts both upon request and in general through an accessible bank of knowledge.

Workshop II - Evaluation of the usage of JITs at EU level

Need for evaluation of the use of the JIT instrument

The experts recognised the need for an evaluation of the use of the JIT instrument by the national authorities at EU level. The evaluation of the JIT as a tool of international judicial and police cooperation would benefit from such a macro-evaluation.

Although the results of this evaluation could be used for legislative and strategic purposes, both at EU and national level, the experts emphasized that the evaluation should primarily serve the practitioners and enhance and improve the use and functioning of JITs. It was acknowledged that systematic and centralised gathering of general information about the use of JITs both at national and EU level - which is currently lacking - would be a requirement for an effective evaluation.

Entities involved in evaluation and gathering of data

A majority of experts considered the JITs Network Secretariat the most appropriate entity for coordinating such an evaluation and gathering all the relevant data for that purpose. Participants recommended that the national experts should, where possible, assist in gathering the relevant data at national level. In this respect, the full implementation of Article 13, relating to informing Eurojust of new JITs, will facilitate this process.

Supporting tools

The JIT national experts considered that the existing support tools, such as the JIT Guide, JIT Manual and JIT model agreement, are useful, and stated that these instruments do not require immediate updating. A collection of both the positive and negative experiences with the use of the model agreement would, however, be valuable.

Need to increase the practice of evaluating JITs at national level

The JIT national experts expressed the need to increase the practice of evaluating JITs at national level and would welcome a common tool for that purpose in the form of a template or checklist established and agreed at EU level (*see* outcome of workshop I). Such a common tool for evaluating JITs used by the national authorities would increase the effectiveness of a general evaluation at EU level, as the information on the use and functioning of the JITs in the Member States would be collected in a standardised format.

The JIT national experts agreed that the gathering of information for the purpose of an evaluation at EU level could also include statistical data, e.g. the number of JITs (per country, per region, between which Member States), area of crime, number of participating (Member) States, duration, persons arrested, proceeds of crime seized, persons prosecuted, convictions, and investigatory competencies awarded to seconded members. These data would need to be collected at national level, and should ideally be drawn from the analysis of the micro-evaluation that is also conducted at national level. The evaluation of all JITs set up at national level should ideally be consolidated in a yearly questionnaire that should be forwarded (in accordance with national law) to the JITs

Network Secretariat prior to the annual meeting. The results from all the Member States should be collated and interpreted in an EU report. A primary purpose of the report should be to assist practitioners in the future successful use of the JIT tool.

Collation and sharing judicial decisions related to the use of JITs

JIT national experts additionally recommended that relevant results from the evaluation be made available in paper and, where possible, in web-based applications.

The JIT national experts emphasized the importance of collating and sharing judicial decisions relating to the use of JITs. Court judgements are important to monitor a number of factors, including: [in]admissibility of evidence, use of seconded powers, duration of JITs, etc. Experts stated that resources will most likely be required to analyse these cases both at national and EU level.

Need for raising awareness of JITs and training of practitioners

The JIT national experts expressed the continued need for raising awareness of JITs and for the training of practitioners in the use of JITs. A more prominent role for the JITs Network Secretariat should be considered in this regard. The JITs Network Secretariat should gather (collate an overview of) all information about planned and ongoing training sessions, modules, seminars or workshops on JITs at international level and should continue its cooperation with national and international organisations, such as CEPOL and EJTN, in organising these trainings. Similarly, JIT national experts should gather this information at national level and forward it to the JITs Network Secretariat.

National experts should also continue to promote the JIT instrument at national level. Participants suggested that experienced practitioners should be encouraged to share their views in national training programmes