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from : Europol

to : Article 36 Committee

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Subject : Mutual evaluation of the cooperation agreements Europol - United States

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Delegations find in annex a letter from the Director of Europol regarding the mutual evaluation of the cooperation agreements Europol-United States, as well as the evaluation report regarding the aforementioned agreements.

The Hague, 13 July 2005  
MBS 070.2005 / # 128051

EUROPOL  
**Management Board**

Mr Javier Solana  
Secretary-General  
Council of the European Union  
Brussels

Dear Secretary-General,

**Mutual evaluation of the cooperation agreements Europol - United States**

I am pleased to inform you about the discussion held during the 12-13 July 2005 meeting of the Management Board on the mutual evaluation of the cooperation agreements between Europol and the United States. A copy of the evaluation report is attached for your information.

The Management Board greatly values the cooperation established between Europol and the relevant US law enforcement authorities. It recognises that this relationship is still maturing but welcomes the positive results achieved.

In particular the Management Board recognises the value of Europol-US cooperation in the area of joint analysis of terrorist and organised crime threats. Europol will continue to seek all possible opportunities to engage with the US authorities in this work. However the Management Board notes that it has not been possible to reach the full potential of cooperation in this field because of the failure of some Member States to ratify the Protocols amending the Europol Convention. These protocols allow for third countries to participate in Europol's analysis work files. The Management Board is disappointed that the process of ratification is still not complete and regrets that this is hindering the development of Europol's relations with US authorities.

The mutual evaluation report provides a positive assessment of the work done by the Europol Liaison Officers stationed in Washington. The Management Board welcomes the future posting of Liaison Officers at Europol from a number of US law enforcement agencies, which will further strengthen cooperation and the exchange of information.

The Management Board recognises that further work is required by Europol to elaborate an appropriate model for the routing of information and assistance along bilateral channels (i.e. directly between Member States and third countries) and multilateral channels (i.e. via Europol). The Management Board recognises that both channels are necessary and useful, as shown in regard to cooperation with the US, but that the capabilities of the Europol have not been optimised yet.

I would be grateful if you would bring the information contained in this letter to the attention of the Article 36 Committee as well as other appropriate Council groups. I remain at the disposal of the Council for further information on the above.

Thank you for your attention and cooperation.

Yours sincerely,



Rob Wainwright  
Chairman of the Europol Management Board

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**ANNEX 2**

**EUROPOL**

28 June 2005

**Cooperation between the United States of America and Europol –  
Prevention and suppression of transnational organised crime**

– Evaluation of the cooperation agreements

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## 1. Introduction

In the aftermath of the terrorist attacks of September 2001, joint efforts of the United States of America (USA) and the Member States (MS) of the European Union (EU) in enhancing the prevention and suppression of serious international crime led, inter alia, to the conclusion of a cooperation agreement between the USA and Europol on 6 December 2001<sup>1</sup>. A ‘supplemental agreement’ was signed on 20 December 2002<sup>2</sup> to further expand the range of collaboration to also include the exchange of personal data.

Effective cooperation in the Justice and Home Affairs domain is of critical importance to the security interests of both the USA and the EU. In addition to the “The Hague Programme” which outlines new strategic guidelines for the EU policy areas of freedom, security and justice in the following five years, the Heads of State of the MS of the EU, in the format of the European Council of 4/5 November 2004, confirmed that a close transatlantic partnership between the EU and the USA is fundamental to international security. On the American side, the government of the USA has stressed in numerous public statements that the transatlantic partnership between the USA and the EU is the essential precondition for achieving security for both sides<sup>3</sup>.

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<sup>1</sup> “Agreement between the United States of America and the European Police Office”, signed by the Ambassador of the United States of America to the European Union and the Director of Europol in Brussels on 06 December 2001

<sup>2</sup> “Supplemental agreement between the Europol Police Office and the United States of America on the exchange of personal data and related information”, signed by the Representative of the United States of America to the European Union and the Director of Europol in Copenhagen on 20 December 2002

<sup>3</sup> Namely President Bush’s address to the EU in Brussels, Belgium, on 21 February 2005

## **2. Context**

Given Europol's unique legal framework of the Europol Convention to share information and intelligence inside the EU as well as with relevant third partners whilst at the same time enshrining the rule of data ownership so as to safeguard the interests of all concerned authorities, the guiding principle of Europol is to process information and intelligence for law enforcement purposes at one central level within the EU. On the American side however, the organisation of the law enforcement and intelligence community is characterised by a more decentralised approach, with competencies assigned to a variety of agencies on the federal, state and local levels. In contrast to the Europol Convention which represents the key instrument for sharing of data and whose provisions are incorporated into the legislation of all EU MS, coordination and also supervisory mechanisms over law enforcement agencies in the USA are established through a range of legal instruments, including statutory provisions and regulations. Thus, fundamentally different structural approaches to the work of law enforcement authorities are utilised by the parties which will be further elaborated on in this report.

## **3. Aim of this report**

According to the provisions of the 'Supplemental Agreement' between the USA and Europol, a joint evaluation pertaining to the status of the implementation of the cooperation is to be carried out by the parties within two years of its entry into force. This report seeks to comply with that obligation assumed by the parties to the agreement.

Based on the reflections between Europol and the point of contact of the US Department of Justice stationed at the US Mission to the EU, a preliminary presentation was given by the US authorities and Europol at the “EU – USA High Level Freedom, Security and Justice Meeting” held under the auspices of the Luxembourg EU Presidency on 13/14 January 2005. This was followed by a joint visit to the USA (7–10 March 2005) where meetings were held directly with critical investigative agencies and prosecution authorities<sup>4</sup> to ascertain the status from their perspective of cooperation. Based on the findings of this visit, this report has been jointly prepared not only to evaluate the implementation of the agreement but also to recommend areas for possible further and enhanced cooperation between Europol and the USA.

This evaluation will be presented to both the EU MS through the Europol Management Board for onward information of the EU Council structures and the Department of Justice of the USA to increase awareness of the state of the relationship as well as to plan on the way forward.

#### **4. Summary statement**

Much has been accomplished in establishing a framework for cooperation between Europol and law enforcement authorities in the USA consistent with the operative provisions of the two cooperation agreements concluded by the parties. Noteworthy is the fact that this framework is applicable to all the law enforcement entities in the USA, whether at federal, state or local levels. Lines of communications have been built up and case information as well as criminal intelligence is passing between the parties to the agreements. The liaison officers of Europol, based at the Delegation of EU Commission in Washington D.C./USA, have been accepted by the US’ law enforcement community in Washington D.C./USA and are functioning in an efficient and professional fashion. Liaison officers from the US Secret Service (USSS) and the Federal Bureau of Investigation (FBI) are being identified for assignments to work with Europol in The Hague which should further deepen the relationship<sup>5</sup>.

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<sup>4</sup> An overview of the authorities visited is enclosed as Annex 1 to this document.

<sup>5</sup> Details are explained under item 5.4.4 of this report.

## 5. Criteria for evaluation

### 5.1 Background

Each party has identified points of contact<sup>6</sup> to coordinate the application of the agreements. The USA has introduced Europol to their US law enforcement authorities responsible for the respective areas of cooperation while Europol has selected its Liaison Office – established in Washington D.C./USA since 1 August 2002 – as its primary point of contact for transmitting information and criminal intelligence requests to US law enforcement authorities originating both from Europol itself as well as from EU MS<sup>7</sup>.

Apart from the bilateral cooperation between EU MS that have seconded officers in the USA and the attachés network of federal authorities of the USA established in EU MS, the cooperation mechanisms pertaining to information and law enforcement intelligence processing on both sides are generally different: A primary actor/ coordination point on Europol's side (i.e. the Liaison Office of Europol in Washington D.C./USA) for requests/ information directed to US law enforcement agencies in contrast to multiple cooperation partners in the respective law enforcement authorities on the side of the USA.

Responses to requests from the Liaison Office of Europol in Washington D.C./USA are either passed through Europol's Liaison Office in Washington D.C./USA or directly to EU MS with copies to the liaison officers of Europol in Washington D.C./USA, pursuant to pre-existing bilateral working arrangements between US law enforcement agencies and EU MS. At the present time, information and law enforcement intelligence requests from US authorities reach EU MS directly through long established bilateral channels (apart from a few exceptional cases).

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<sup>6</sup> Article 4 of the agreement signed in Brussels on 6 December 2001; article 4 of the 'supplemental agreement' signed in Copenhagen on 20 December 2002

<sup>7</sup> The agreements are silent on Europol serving as a representative on behalf of the EU Member States but the USA has nevertheless agreed to allow it to function in this capacity within the context of the relationship. In some exceptional cases, Europol staff members have also dealt with US law enforcement personnel directly (EU – US Expert Meeting on 29/30 November 2004 etc.)



Based on the criteria developed for the evaluation of existing cooperation agreements between Europol and third states or organisations<sup>8</sup>, the cooperation is assessed in the following areas:

## 5.2 Quantity/ volume of exchanged information and intelligence<sup>9</sup>

The total exchange of correspondence handled by the Liaison Office of Europol in the USA has more than doubled (2.583 against 1.266) during the second year of the ‘supplemental agreement’ being in place (see Annex 2 for further details).

The main part of this correspondence in 2004 was operational with 1.865 occurrences of operational correspondence compared to 585 strategic files and 133 administrative references.

As regards the fields of criminality, drug related crime communication constitutes almost one third of the total operational and strategic correspondence; terrorism represents 18.6%, followed by forgery of money and means of payment (each 5.6%), offences against life (murder – 5.1 %), trafficking in human beings and child pornography totalling 6.1% and 4.5% respectively (Annex 3).

In relation to the specific Analysis Work Files (AWFs) maintained at Europol, cooperation took place in 12 out of the 17 AWFs (quantitative overview comprised in Annex 5). Both parties anticipate that the adoption of the amendment to the Europol Convention<sup>10</sup> – which will enable third parties like the USA to be associated to AWFs at Europol – bears prospects for significant expansion of cooperation between US law enforcement authorities and Europol. Therefore, this change to the Europol Convention should be ratified by all EU MS as soon as possible.

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<sup>8</sup> The model agreements (for strategic or operational cooperation which includes strategic collaboration) and the criteria for evaluation of cooperation agreements have been developed by EU MS in the format of the Europol Management Board in December 2003.

<sup>9</sup> The figures given in this report are based on statistical material compiled solely by the Liaison Office of Europol in Washington D.C./USA; where available from US law enforcement authorities, data have been cross-checked (to allow for statistics that are accurate) to the extent possible. No centralised statistics are collected by the USA on the number of transactions engaged in by agencies of the USA and Europol. While not challenging the accuracy of the data reflected in these tables, the USA are not in a position to adopt it as the product of a joint collection effort.

<sup>10</sup> Official Journal of the European Union, C2/1, 6 January 2004.

The Federal Bureau of Investigation (FBI) is the counterpart with the highest number of communications handled by Europol's Liaison Office in Washington D.C./USA (see Annex 4).

All Europol MS have made use of the Liaison Office of Europol in Washington, including MS which have their own bilateral liaison posts in the USA<sup>11</sup>. Spain is the country which has used the Europol Liaison Office the most with 131 information exchanges, followed by Denmark with 63 (detailed figures are outlined in Annex 6).

The new European Union MS have started communicating with the Liaison Office of Europol in the USA. The Slovak Republic, Hungary and Cyprus have made the largest use of this service.

The volume of requests and information/ law enforcement intelligence received at the Liaison Office of Europol in Washington D.C./USA for onward communication to US law enforcement authorities amounted to 509 cases in the recorded period (Annex 7). Responses are not exclusively transmitted via the same channel and are often communicated directly to the EU MS with a copy to the Liaison Office of Europol in Washington D.C./USA.

Information and law enforcement intelligence or requests from US law enforcement authorities routed to the Liaison Office of Europol in Washington D.C./USA for further utilisation were recorded 266 times in the concerned period. At the present time, especially operational information and law enforcement intelligence requests from US authorities reach EU MS directly through long established bilateral channels. Europol's Headquarters are not generally approached for the purpose of making requests to Member States by US law enforcement authorities that have well established and functioning liaison relationships with most if not all the EU MS.

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<sup>11</sup> Belgium, France, Germany, Italy, the Netherlands, Spain and the United Kingdom have currently bilateral liaison posts based in Washington D.C./USA.

Detailed overviews including the respective exact period of registration are explained in Annexes 2–7 to this report.

### 5.3 Quality of exchanges information and law enforcement intelligence

Europol makes a significantly higher number of requests to the USA than it receives. Many factors contribute to this disproportionate aspect of the relationship, including the fact that many agencies do not see a value added by making requests to MS via Europol as opposed to dealing with them directly. Any added value that Europol can provide is either not perceived or is deemed outweighed by the benefits to be derived from dealing with Member States directly. At least from the perspective of the USA, the relationship with Europol was never intended to replace existing bilateral relationships with Member States. Europol respects this intention and is of the opinion that the Europol cooperation framework can on a central level offer a qualitative contribution which will even enhance bilateral relations with MS.

Against this background this section intends to outline the observations made by the Liaison Office of Europol in Washington D.C./USA.

To enhance the quality of the exchange of information and law enforcement intelligence between the relevant entities at Europol and the USA, a quality mechanism for assessing the information and intelligence exchanges in relation to timeliness and the content has been unilaterally put in place at the Liaison Office of Europol in Washington D.C./USA since 1 January 2004<sup>12</sup>. This quality assessment has proven to be an useful mechanism for the Liaison Office of Europol in Washington D.C./USA to monitor the overall quality of correspondence as regards both the content and timeliness (see Annex 7).<sup>13</sup>

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<sup>12</sup> This mechanism was launched by Europol following a joint visit of Europol and the US Mission to the EU in January 2004.

<sup>13</sup> The standards and criteria utilised by Europol for this assessment are not applied by US law enforcement authorities and are therefore not necessarily endorsed by the USA. Furthermore, the USA do not attempt to monitor the quality or quantity of requests it receives from Europol.

As regards the content, the requests and replies have been scrutinised by the Liaison Office of Europol in Washington D.C./USA, based on:

- Completeness
- Clearness
- Accuracy
- Adequacy
- Compliance with the legal framework of the Europol Convention and the cooperation agreements between Europol and the USA

Depending on the elements as listed above, the Liaison Office of Europol in Washington D.C./USA rated the content of the correspondence with certain marks. An incorrect addressee, for example a wrong channel of communication, or a lack of conformity with the mandate assigned by the Europol Convention or the cooperation agreements between Europol and the USA, were always rated with the lowest category of the criteria.

For information/ law enforcement intelligence and requests addressed to the USA, the Liaison Office of Europol in Washington D.C./USA has introduced a standard template which comprises the following data: date, file number, type of crime, origin of the request or information, handling/ evaluation codes (see Annex 8), background information (to justify the request to the USA), description of the mandated area in question as well as the classification level if applicable.

As outlined, seven EU countries have bilateral law enforcement attachés stationed in Washington. Law enforcement authorities of these EU countries also use the Liaison Office of Europol in Washington D.C./USA. To avoid duplication of efforts, the Liaison Office of Europol informs EU Member States' liaison officers that are bilaterally based in Washington/USA before correspondence regarding the respective country concerned is processed by the Liaison Office of Europol in Washington/USA to US law enforcement agencies. The liaison officers of Europol are integrated in the regular meetings of the bilateral EU liaison posts based in Washington D.C./USA.

The outcome of the statistical data collected in this fashion shows that the overall content of correspondence on both sides – the US authorities and EU – is good and that low quality exchanges have been insignificant. There are no indications that Europol is treated differently by US law enforcement authorities compared with the EU Member States on a bilateral basis.

Since information and criminal intelligence requests have been made on the side of Europol in an exclusive way, it should be noted that the assessment regarding the US agencies solely refers to information/ intelligence provided by US agencies as a response to requests made by Europol's Liaison Office in Washington D.C./USA.

The current format of the quality assessment only comprises elements pertaining to the content and the timeliness of the respective information or law enforcement intelligence. The importance of the underlying criminal occurrence and the added value for a specific investigative case (and concerned measures relating to the prosecution) are not measured. As a result of this, the USA and Europol intend in the future to discuss options as to how the importance of the concerned case can be captured as an additional element to assess the quality of the communication. This will help identify priority indicators and further reflect on the depth, or the lack thereof, of the relationship between the USA and Europol.

A detailed overview including the overall methodology is given in Annex 7 of this document.<sup>14</sup>

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<sup>14</sup> See also footnote 13.

## 5.4 Assessment on the added value for the partners

### 5.4.1 US law enforcement authorities

Taking into account the fact that US authorities have – since the establishment of the Liaison Office of Europol in Washington D.C./USA – made only limited use of the cooperation agreements<sup>15</sup> it can be concluded that any added value of the cooperation agreements has not been fully exploited by some US law enforcement authorities. This assumption is supported by the fact that operational information/law enforcement intelligence requests from bilateral attachés of US authorities based in EU MS are not addressed to the MS Liaison Bureaux based at Europol Headquarters or Europol itself but to the concerned MS directly. Given that bilateral cooperation between attachés of US law enforcement authorities and EU MS is the prevailing method of collaboration, the actual added value gained by US law enforcement authorities through the application of the cooperation agreements between Europol and the USA is deemed to be limited. One reason for this could be identified by the circumstance that third states like the USA can not be associated to the Analysis Work Files at Europol until the amendment of the Europol Convention comes into force and the necessary regulatory framework is adopted on the side of the EU. In addition to this, there appears to be uncertainty and even distrust concerning the information/ law enforcement intelligence process applied by Europol among the law enforcement community in the US. Moreover, there is a fear that cooperation with Europol or with the EU MS through Europol as a central coordination entity may undercut the bilateral cooperation which is considered as the most important form of collaboration. As repeatedly articulated by the USA, there is no desire on the side of the USA to replace the bilateral enforcement relationship with the EU MS but it is the interest to build upon that collaboration.

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<sup>15</sup> See also item 5.2 of this report.

From the US perspective Europol remains to be of limited immediate value if its core function is to provide for making requests to the USA on behalf of the MS. The USA anticipated that Europol would provide EU wide analytical assessments about crime as well as information on particular transnational cases impacting on the USA. To measure Europol's success or failure in the view of the USA merely by the number of requests it transmits is not the right method of assessing potential added value by Europol. From the standpoint of the USA, Europol's value must be in its ability to transcend the boundaries of a single MS and discern transactional relationships between and among criminal elements which otherwise would go largely undetected.

Europol, in its judgement, offers different levels of added value for US law enforcement authorities: For those agencies that do not possess a bilateral network of liaison posts in EU MS, Europol can serve as the platform to reach all the 25 EU member countries and coordinate respective actions. For those US agencies that have established bilateral liaison posts in EU Member States, Europol nevertheless can be utilised by the US agencies to help support the coordination of investigative measures in all EU Member countries at a central level. Europol sees this as an area where further cooperation should be explored.

#### **5.4.2 EU MS and Europol in general**

As described under item 5.3 of this document, the current quality mechanism in place focuses on monitoring the content and timeliness of requests and responses. There is however no mechanism that has been devised by either side to qualitatively assess the added value for Europol, the MS or the USA arising from the relationship. The idea to assess the importance of the respective cases that constitute the basis for the requests and responses will therefore also have to involve the EU MS.<sup>16</sup>

Bearing in mind the positive development with regard to the new MS that have no current representation in the USA there is reason to assume that all MS, in particular the new ones, will increasingly take advantage of the Liaison Office of Europol in Washington D.C./USA and its services.

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<sup>16</sup> See item 5.3 of this document.

As regards Europol and its support function for the MS, the figures of information/intelligence requests generated within the framework of the Analysis Work Files (AWFs) – Annex 5 – indicate that Europol itself has a potential for an increased role as a coordinating entity for US law enforcement authorities. As outlined above, this is expected to come to effect when the respective changes to the Europol Convention will have been ratified by EU MS<sup>17</sup>.

Both Europol and the assessing party on the side of the USA agree upon the conclusion that the liaison officers of Europol in the USA are considered as experienced and well qualified law enforcement representatives.

#### **5.4.3 Brief assessment by Europol's Liaison Office – main partners:**

The Criminal Division of the Department of Justice, together with the US Secret Service, are the US partners that have made the best qualitative use of Europol's possibilities. The staff at the Criminal Division, considering the nature of the work and organisational structure as well as the fact that the Criminal Division has limited personnel stationed in the EU, has found that Europol can serve in certain cases as a platform to reach all EU MS. Main topics of cooperation with the Criminal Division have been Albanian Organised Crime (OC) and Eastern European Organised Crime (EEOC).

With regard to the United States Secret Service (USSS) cooperation continues to be excellent. The example of an investigation carried out by the USSS at the end of 2004 to dismantle a global network of criminals communicating through the internet to organise identity theft and credit card fraud in particular demonstrates that Europol can be utilised by the US law enforcement community as a coordinating entity for law enforcement activities in the EU MS. It has however to be stressed that the USSS does not have a large contingent of liaison posts assigned to EU MS as other US agencies have which may account for its interest in working closely with Europol as a means of dealing with MS.

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<sup>17</sup> See footnote 10 for exact reference documentation.



Original efforts following the tragedy of the terrorist attacks of 11 September 2001 in the USA aimed at enhancing cooperation between Europol and the FBI in the context of the Counter Terrorism Task Force (CTTF) at Europol were unsuccessful as MS – according to the assessment of the USA – were unwilling to share information with the USA via the Europol channel. At that time, the ‘supplemental’ agreement was not in place, although the then Director had waived the requirement of an agreement as a prerequisite to sharing information due to the life threatening situation at that time as provided for in the Europol Convention. Eventually, the FBI withdrew the liaison post it had assigned to the CTTF at Europol after three months. Since then, the FBI has nevertheless continued expanding its cooperation with Europol.

Direct access of the liaison officers of Europol in Washington D.C./USA to FBI experts on Outlaw Motorcycle Gangs (OMG) and child pornography were complemented with counterparts responsible for combating Eurasian OC and proliferation of Weapons of Mass Destruction (WMD). The relationship with the FBI’S Office of International Operations has drastically improved following discussions between Europol, the US Mission to the EU and FBI management in Washington D.C./USA in January 2004 and March 2005.

The United States National Central Bureau of Interpol (US NCB) where all the main federal law enforcement authorities are represented offers excellent cooperation with prompt replies and outstanding quality of information. Significantly, this unit is the interface for Europol having the capability of reaching out to (and having relations with) all law enforcement entities in the USA at state and local levels under the terms of the cooperation agreements, as well as with the smaller federal law enforcement authorities.

Recent developments at the end of 2004 and beginning of 2005 suggest that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) can be a partner for possible expanded cooperation in the future as regards illicit trafficking of tobacco/cigarettes as well as outlaw motorcycle gangs. With regard to illicit trafficking of tobacco/cigarettes, a new Analysis Work File at Europol which intends to tackle this particular area of organised crime has been established and links to the USA have been identified. Furthermore, electronic access to the National Tracing Centre Division (NTCD) which compiles relevant information concerning nationwide use and trafficking of firearms as well as the international component of the Bomb and Arson Tracking System (BATS) have been offered to Europol by the ATF. Providing that access can be realised in line with legal provisions and logistical business planning, Europol strives to reciprocate with data from EU MS.

It is worth mentioning that the Liaison Office of Europol in Washington D.C./USA has been entirely integrated in the working environment of the Delegation of the European Commission in the USA. As a consequence, a close relationship has been established with the Justice and Home Affairs Counsellor of the EU Commission in particular to facilitate efforts for cooperation with US authorities on a policy level as well.

#### **5.4.4. Role of the liaison officers in general**

Europol's Liaison Office second year in the USA has been a period of consolidation of its relationship with US partners and expansion of its network.

Europol's objective of achieving reciprocity in the routing of the information/law enforcement intelligence requests by EU MS through the Liaison Office of Europol in Washington D.C./USA has been a key issue. Since Europol's profile in the US law enforcement community has grown, Europol and its Liaison Office in Washington/USA appear to have good prospects for enhancing more efficient and coordinated relations between US authorities and EU MS.

The announcement by the former US Attorney General Ashcroft (during the ministerial consultations under the EU Presidency of the Netherlands on 29/30 September 2004) that the US Secret Service and the FBI will assign bilateral liaison officers (already based in EU MS) to work at least on a part-time basis as liaison officers at Europol Headquarters supports the conclusion that the relationship is maturing. During the discussions on this evaluation report, the US Secret Service and the FBI have confirmed that the liaison posts would be prepared to take up activities at Europol in the third quarter in 2005. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) explained that considering fact the that the ATF had currently no liaison attaché in a Member State of the EU, a possible centralised placement of a liaison officer at Europol would be assessed due to indications of increased links to the EU in its investigative cases.

Further to the explanations given under items 5.2 and 5.4.3 of this report, it can not be assessed at the moment whether the current situation of operational information/ law enforcement intelligence requests being routed from US agencies directly to EU MS will be impacted by the anticipated stationing of an FBI and USSS liaison post to Europol in The Hague.

The EU enlargement is equally important in this context because Europol aims to provide added value especially to the law enforcement agencies of the new EU Member States in terms of their cooperation with US authorities.

## **5.5. Fulfilment of respective obligations**

The exchange of information between Europol and the US points of contact is made exclusively in writing, thus fulfilling the provisions of article 4, paragraph 1 of the ‘supplemental agreement’.

The Liaison Office of Europol works in a secure environment at the premises of the Delegation of the European Commission in Washington D.C./USA. Europol has installed a secure electronic line between its headquarters and the Liaison Office in Washington D.C./USA. Communication between the Liaison Office and its partners in the USA is made by delivering hard or soft copies by hand (not by standard mail, e-mail or non protected fax) in order to ensure a maximum level of security for the information/ intelligence. An exception is the United States National Central Bureau of Interpol at the Department of Justice and the FBI (since February 2005), the only enforcement entities which have offered access to their secure internet networks to the Liaison Office of Europol in Washington D.C./USA<sup>18</sup>.

The International Law Enforcement Counsel of the Department of Justice, based at the US Mission to the EU, has been particularly supportive to the development of new cooperation partners of the US law enforcement community.

No breaches of the agreements in place have been noted by either side. As a conclusion, the obligations as stipulated in the cooperation agreements have been met. Both sides are particularly sensitive about handling of personal data especially in the context of sharing arrangements involving many nations.

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<sup>18</sup> To avoid misunderstanding it should be highlighted that no access to the Virtual Private Network (VPN) at Europol exists. Information is handled in compliance with both the confidentiality regimes of US law enforcement authorities and Europol.

## **5.6. Constraints for cooperation and possible solutions**

### **5.6.1 Routing of information**

The routing of information and law enforcement intelligence requests from the Liaison Office of Europol in Washington/USA to the Headquarters of the Drug Enforcement Administration (DEA) is still a matter under discussion and the establishment of a working group to discuss the issue has been agreed upon. For the time being, an interim arrangement with the USNCB<sup>19</sup> has been established that provides for a channel of communication of such requests. The difference in relation to the approaches applied by the DEA and Europol are based on diverging working mechanisms: Information/ law enforcement intelligence is generated and processed by the country attachés of the DEA in a decentralised manner and not at DEA Headquarters in Washington D.C./USA. For its part, the DEA would prefer to see Europol requests made directly to its attaché based in The Hague. In contrast, Europol which is founded on the principle of centralised information/ law enforcement intelligence processing and intelligence led policing would prefer for consistency purposes that all requests are routed through its Liaison Office in Washington D.C./USA. Until this issue is resolved, the parties have however agreed to route request on drug related crime through the USNCB in Washington D.C./USA.

### **5.6.2 New potential cooperation partners – awareness etc.**

Authorities such as the El Paso Intelligence Centre (EPIC), the North Central Field Intelligence Unit (NCFIU) and the Cyber Crime Centre (CCC) are useful potential partners in the USA to collect information and law enforcement intelligence. The same applies to the National Counter Terrorism Centre (NCTC) and the Criminal Investigative Office of the Department of State. A separate assessment of their potential added value for Europol and EU Member States should be carried out by Europol experts in order to come to an assessment if and how Europol could associate with these entities. Considering the principle of reciprocal cooperation, Europol would no doubt have to identify which services could be provided to these authorities in return.

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<sup>19</sup> United States Central Bureau for Interpol

The Criminal Division of the Department of Justice has stressed during the discussions of this evaluation report that mutual support as regards threat assessments on the EU and the US side would be desirable, especially taking into account the role for Europol as the focal point for the future Organised Crime Threat Assessment (OCTA) of the EU. As a first step, an exchange on strategic analysis products in relation to the Western Balkan region has been proposed by the Department of Justice.

### **5.6.3 Data security and Information/ intelligence handling regime**

Handling and evaluation codes have been used by Europol (mechanism outlined in Annex 8) while US law enforcement authorities generally categorise data as being ‘law enforcement’ or ‘law enforcement sensitive data’ (as well as tax, medical and other forms of sensitive data). Different (to) THEN the classification levels applied in the Europol cooperation framework, the classifications of ‘confidential’, ‘secret’ and ‘top secret’ are in the USA reserved for national security information whose unauthorised disclosure can put the nation at risk in terms of ITS national security.

The Liaison Office of Europol has noticed that US authorities appear not to be fully familiar with the model of the handling codes and classifications utilised by Europol and it is apparent that this equally applies to EU Member States and Europol personnel with regard to the US’ classification regime. A lack of awareness of Europol’s information handling regime and the system in the USA may impede the sharing of relevant information and law enforcement intelligence.

Apart from the understanding concerning the concept of classification, secure links between the Liaison Office of Europol and the federal agencies are desirable in order to improve the information and law enforcement intelligence flow.<sup>20</sup>

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<sup>20</sup> So far, access exists to the secure network of the United States National Central Bureau of Interpol at the Department of Justice and the FBI (since February 2005) – see also item 5.5 of this report.

The US side has also reported that there is a need to increase the knowledge about other EU institutions in general and their roles and responsibilities (including concerned products and services) more specifically since there is no overarching definition available in the EU.

#### **5.6.4 Current format of the agreements**

From the information available – in the view of both parties – there appears to be no need to modify or replace the agreements currently in place between Europol and the USA.

### **6. Conclusions and recommendations – areas for improvement**

Further to the assessment of the existing cooperation as described in this report, the following areas for potential enhancement of cooperation have been identified by both sides:

#### **6.1. Mutual awareness about the information/ intelligence processes**

- Improved understanding about the legal framework and the respective products/ services of both parties including roles and responsibilities of judicial authorities (Eurojust) and other players of relevance in the Justice and Home Affairs domain of the EU (see 5.6.3)
- A seminar for US law enforcement authorities was organised at Europol in April 2005 as a first step. This will be followed in the fall of 2005 with a conference intended to expose EU Member States, EU officials and Europol to the US law enforcement mechanisms;
- Familiarity with each others data security, handling and evaluation codes (Annex 8), as well as the further development of mutual trust and confidence building as regards the perceived differences in the information/ and law enforcement intelligence culture on both sides (setting-up of a table of equivalence including a booklet for practitioners in authorities on both sides);

- Creation of a clear concept of routing of information and law enforcement intelligence between US law enforcement authorities and Europol, based on the principle of reciprocity. This presupposes that Europol will have access to updated and ‘live’ information and law enforcement intelligence from EU Member States to share with US law enforcement authorities;
- Elaboration of a solution regarding the routing of information between the Drug Enforcement Administration (DEA) and Europol, perhaps including the placement of a liaison post of the DEA at Europol Headquarters;
- Mutual involvement in training activities for law enforcement personnel.

## **6.2. Quantitative and qualitative improvement of communication**

- Identification of possible ways on how to assess jointly the impact and added value of cooperation more specifically on both sides (quality of cooperation). Depending on this, common standards in response times and content related quality might be developed;
- Installation of more direct secure lines between the Liaison Bureau of Europol in Washington D.C./USA and concerned federal US law enforcement authorities to facilitate the quantitative exchange of information and law enforcement intelligence.

## **6.3. Expansion of cooperation**

- Identification of new dimensions of cooperation between Europol and the US law enforcement community in a reciprocal fashion (e.g. 5.6.2);
- Preparation of necessary steps on both sides to establish liaison posts of the FBI and the USSS at Europol Headquarters (possibly from the ATF as well);
- Reflection on the need of a possible structured cooperation between the intelligence community of the USA – namely the National Counter Terrorism Centre (NCTC) and Europol as regards the prevention and suppression of terrorist activities;



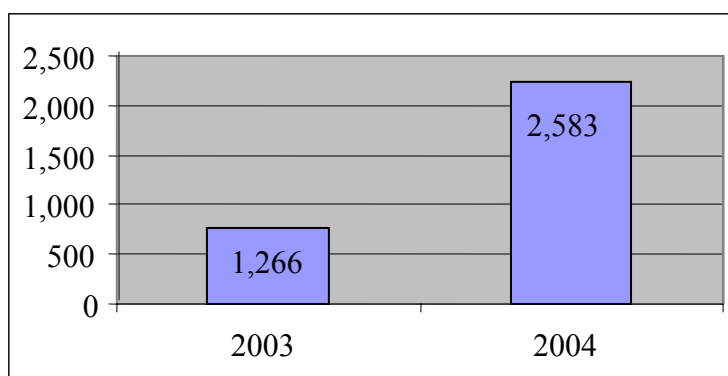
- Initiation of joint assessments on emerging crime trends between the EU Presidency Troika, Europol and the USA (including the exchange of crime strategies to respond to the crime trends);
- Cooperation and exchange of products as regards specific strategic analysis: Western Balkans as a first example, with regard to the Organised Crime Threat Assessment (OCTA) of EU and respective US nationwide products in the long run;
- Development of joint operational actions with the involvement of Europol (where applicable, based on the positive experiences gained from the operation between the USSS, Europol and the EU Member States – see item 5.4.3).

#### **6.4. Legal framework and policy issues in general**

- Further cooperation should be based on the current agreements in place (no replacement foreseen with model agreements as elaborated in order to stipulate relations between third states and Europol);
- Preparation of both sides to exploit the forthcoming change of the Europol Convention which will enable third parties to be associated to Analysis Work Files (AWFs);
- Conclusion of the “Implementing Arrangement between the USSS and Europol” for further cooperation.

**List of authorities visited to prepare the report**

1. EU Commission Delegation to the USA in Washington D.C./USA
  - Ambassador, Counsel for Justice and Home Affairs, Head of Administration of the EU Commission Delegation to the USA
2. Director of National Intelligence (DNI)
  - National Counter Terrorism Centre (NCTC)  
Deputy Director of the NCTC, Foreign Liaison Office
3. US Department of Justice
  - Criminal Division  
Deputy Assistant Attorney General, Counter Terrorism Section, Organised Crime and Racketeering Section, Narcotics and Dangerous Drugs Section
  - US National Central Bureau of Interpol  
Director, Deputy Director Assistant Director State & Local Liaison
  - Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)  
Director, Assistant Director and Deputy Assistant Director Strategic Intelligence and Information, Office of Strategic Information and Intelligence
  - Drug Enforcement Administration (DEA)  
Chief of the Office of Enforcement Operations, Chief of DEA Operations, Chief of the Office of International Operations
  - Federal Bureau of Investigation (FBI)  
Section Chief Office of International Operations  
Office of International Operations
4. Department of Homeland Security
  - United States Secret Service (USSS)  
Director, Assistant Director, Criminal Investigative Division (CID): Head of Cyber Crime Task Force, Special Agent in charge of the CID
  - Immigration and Customs Enforcement (ICE)  
Director of the Office of International Affairs
5. Department of State
  - Political and Global Affairs Office
  - Office of the Legal Adviser of the Department of State
  - Chief of Criminal Investigative Liaison – Diplomatic Security Service

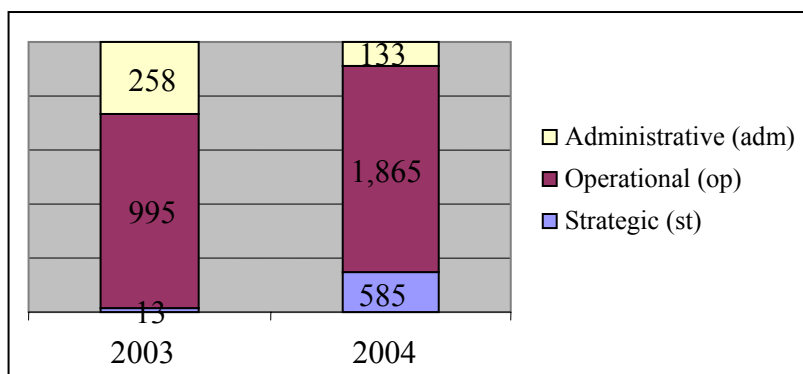
**Total correspondence trends<sup>22</sup>**

**Total Correspondence: 3.849**

<sup>21</sup> The figures given in this report are based on statistical material compiled solely by the Liaison Office of Europol in Washington D.C./USA; No centralised statistics are collected by the USA on the number of transactions engaged in by agencies of the USA and Europol. The USA therefore do not necessarily concur in or endorse the accuracy of the data presented in the Annexes 2–6.

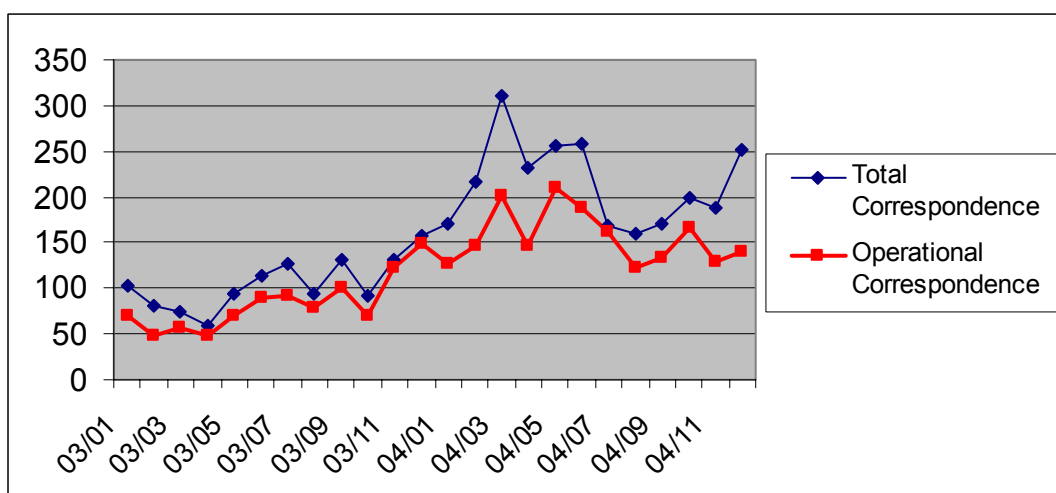
<sup>22</sup> All operational, strategic and administrative exchanges of information received at and/or sent by the Liaison Office of Europol in Washington D.C./USA are stored and recorded in two registration systems. One system is the Information Exchange System (Info–Ex) which registers all correspondence between Europol, the Liaison Bureaux of EU Member States and third states at Europol, including also the Liaison Office of Europol in Washington D.C./USA. The Info–Ex is the pivotal electronic system for the exchange of operational data at Europol (launched/established on 9 April 2003). The manual for the Info–Ex System defines “operational data” as information/intelligence which contribute to a subject matter under investigation (no administrative matters). The second one is a local database maintained at the Liaison Office of Europol in Washington D.C./USA. Figures related to this database as comprised in this report entail the complete period of 2003 – 2004 (Info–Ex System was started on 9 April 2003 only). In the local database at the Liaison Office of Europol in Washington D.C./USA all incoming and outgoing messages are recorded. For instance, in addition to the Info–Ex System, the correspondence between the Liaison Office of Europol in Washington D.C./USA and the partners in the USA as regards strategic files is monitored in that local database. Moreover, the quality of the contents of the correspondence is registered in this database exclusively (not in the Info–Ex System). The figures displayed in Annexes 2 – 4 are based on the entries of the local database maintained at the Liaison Office of Europol in Washington D.C./USA.

## Total correspondence itemised per operational, strategic and administrative files

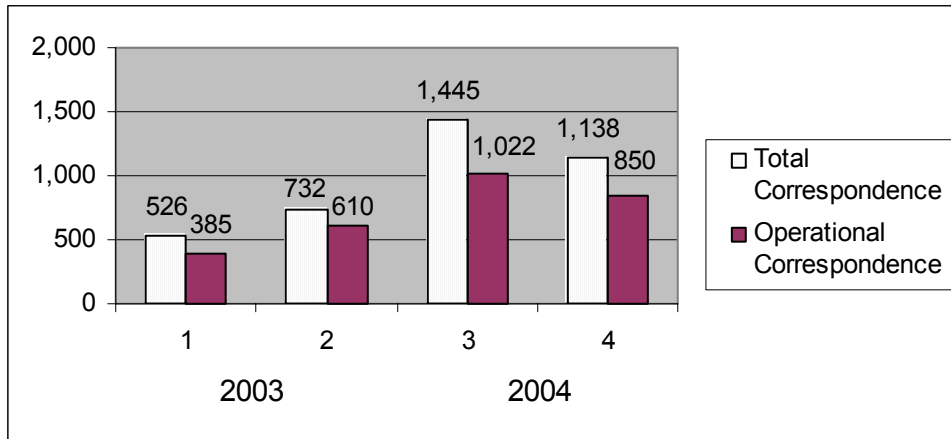


File type	2003		2004	
	Quantity	%	Quantity	%
Operational	995	79	1.865	72
Strategic	13	1	585	23
Administrative	258	20	133	5
<b>Total</b>	<b>1.266</b>	<b>100</b>	<b>2.583</b>	<b>100</b>

## Correspondence volume per month



### Correspondence volume per semester

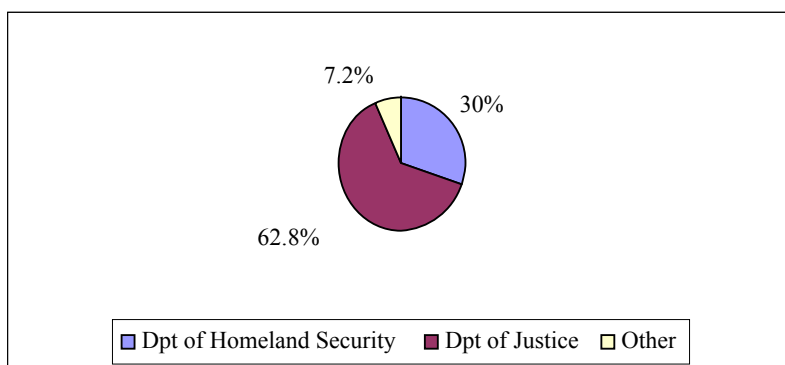


**Correspondence by type of crime at the  
Liaison Office of Europol in Washington D.C./USA**

<b>Crime Types</b>	<b>Total correspondence</b>	<b>% of total correspondence</b>
Drugs	1067	32.7
Terrorism	607	18.6
Other means of payment	184	5.6
Trafficking in human beings	198	6.1
Forgery of money	182	5.6
Bodily injury	115	3.5
Murder	167	5.1
Weapons and explosives	96	2.9
Child pornography	148	4.5
Money laundering	115	3.5
Fraud and swindling	101	3.1
Illegal immigration	121	3.7
Computer crime	69	2.1
Forgery of administrative documents	35	1.1
Robbery	30	0.9
Vehicle crimes	14	0.4
Racketeering and extortion	3	0.1
Racism and xenophobia	3	0.1
Trade in human organs	4	0.2
Cultural property Crime	5	0.2
<b>Total:</b>	<b>3264</b>	<b>100.00</b>

<sup>23</sup> Footnote 21 applies to this Annex as well.

### Correspondence with US partners



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<sup>24</sup> Footnote 21 applies to this Annex as well.

**Total communication with US partners: 1.398**

**Detailed overview:**

Dpt	Agency	Quantity	File Type	Dpt	Agency	Quantity	File type		
US Dept of Homeland Security	ICE <sup>25</sup>	151	op	US Dept of Justice	FBI <sup>26</sup>	312	op		
			56		st			52	st
			16		adm			27	adm
		NCFIU <sup>27</sup>	12		op		USNCB <sup>28</sup>	169	op
			1		adm			23	st
		Cyber Crime Centre	2		op			10	adm
	US Secret Service	134	op		Criminal Division	60	op		
			20		st		4	adm	
			10		adm	DEA <sup>29</sup>	97	op	
	Other	11	op			20	st		
		8	st			15	adm		
<b>Total</b>	<b>421</b>			ATF <sup>30</sup>	41	op			
					7	st			
					6	adm			
				Other <sup>31</sup>	2	op			
					2	st			
				<b>Total</b>	<b>878</b>				

<sup>25</sup> Immigration and Customs Enforcement; excluding NCFIU, Air Marshal Service and Cyber Crime Centre

<sup>26</sup> Federal Bureau of Investigation; in January 2004 representatives of the Department of Treasury and Europol agreed upon cooperation. In the course of 2004, Europol exchanged personal data with the Office of Foreign Assets Control – OFAC – and the Internal Revenue Service – IRS. However, since data were exchanged through the FBI, the Liaison Office of Europol in Washington D.C./USA has not itemised these two agencies separately in the overview.

<sup>27</sup> North Central Field Intelligence Unit; entity providing information pertaining to travellers to the USA

<sup>28</sup> United States Central Bureau for Interpol

<sup>29</sup> Drug Enforcement Administration

<sup>30</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives

<sup>31</sup> US Marshals Service, District Attorney of County of New York



Dpt	Agency	Quantity	File Type
U.S. Dpt of State	Office to combat trafficking	1	op
		4	st
		4	adm
	TTIC <sup>33</sup>	1	op
		1	st
	Diplomatic Security	4	op
	Counter terrorism	1	st
	<b>Total DoS</b>	<b>16</b>	

Dpt	Agency	Quantity	File type
NCMEC <sup>32</sup>	NCMEC	3	op
		4	st
		1	adm
<b>Total</b>		<b>8</b>	

Dpt	Agency	Quantity	File
ONDCP <sup>34</sup>	ONDCP	1	op
		7	st
		1	adm
<b>Total</b>		<b>9</b>	

Dpt	Agency	Quantity	File
NDIC	NDIC <sup>35</sup>	3	op
		5	st
		2	adm
<b>Total</b>		<b>10</b>	

Other Agencies	Quantity	File
USPIS <sup>36</sup>	29	op
	15	st
	1	adm
Other	5	op
	2	st
	4	adm
<b>Total</b>	<b>56</b>	

<sup>32</sup> National Centre for Missing and Exploited Children

<sup>33</sup> Terrorist Threat Integration Centre (TTIC) which has been transformed into the National Counter Terrorism Centre (NCTC) at the end of 2004.

<sup>34</sup> Office of National Drug Control Policy – attached to the Executive Office of the President of the USA

<sup>35</sup> National Drug Intelligence Centre – entity which provides mainly strategic information/intelligence

<sup>36</sup> United States Postal Inspection Service

**Correspondence per Analysis Work File (AWF) at the  
Liaison Office of Europol in Washington D.C./USA**

<b>AWF Name</b>	<b>Total Info-Ex System<sup>38</sup> records</b>	<b>Requests from AWFs to Liaison Bureau</b>
Monitor	226	70
Terminal	84	27
Twins	34	16
Islamic Terrorism	28	5
EE-OC TOP 100	18	8
Copper	8	1
Genesis	8	4
Dolphin	4	0
Key Process	3	1
Cola	2	0
Mustard	2	1
SusTrans	2	0
<b>Total</b>	<b>419</b>	<b>131</b>

Explanations:

AWF Monitor targets criminal activities of outlaw motorcycle gangs (OMG).

AWF Terminal aims to dismantle networks consisting of individuals involved in fraudulent activities related to payment cards, particularly skimming or copying electronically of all types of payment cards.

AWF Twins is related to criminal networks involved in the production, sale or distribution of child pornography via the internet.

AWF Islamic Terrorism aims to identify criminal offences, associated with the activities of Islamic extremist terrorist groups or organisations.

AWF EE-OC TOP 100 targets East European Organised (EEOC) criminal principals, groups and networks impacting on the EU.

AWF Copper deals with Ethnic Albanian Criminal Groups (EACG) and associated groups involved in all forms of criminality within Europol's mandate.

<sup>37</sup> Footnote 21 applies to this Annex as well. Figures are shown as per end of 2004.

<sup>38</sup> See explanations referring to Annex 1.

AWF Genesis supports the European Joint Unit on Precursors (EJUP) in identifying suppliers of precursor chemicals used primarily, but not exclusively, in the production of synthetic drugs, both in and outside of the EU.

AWF Dolphin seeks to identify activities of terrorist groups listed by the Council of the European Union as a serious threat to the security of the European Union and the Member States, and associated criminal activities within Europol's mandate.

AWF Key Process deals with OC groups involved in car-jacking, domestic/commercial vehicle theft.

AWF Cola targets Latin American criminal organisations and their European networks involved in drug trafficking from Latin America.

AWF Mustard seeks to dismantle Turkish criminal groups and associated groups involved in unlawful drug trafficking.

AWF SusTrans deals with criminal organisations involved in money laundering activity and related offences.

Correspondence with / on behalf of Member States (MS) – Info–Ex System<sup>40</sup>

MS with Liaison Office in Washington D.C./USA	In total	MS requests received at the Liaison Office of Europol	MS without a Liaison Office in Washington D.C./USA	In total	MS requests received at the Liaison Office of Europol
Spain	131	41	Denmark	63	13
France	58	16	Finland	47	10
Germany	55	6	Portugal	37	2
Italy	40	7	Sweden	34	5
Netherlands	37	6	Luxembourg	27	2
Belgium	37	4	Greece	26	2
UK	34	7	Austria	25	2
			Ireland	21	2

Correspondence with / on behalf new Member States (MS) and third countries  
(Info –Ex System)

New MS	In total	MS requests received at the Liaison Office of Europol	Third countries with an agreement <sup>41</sup>	In total	MS requests received at the Liaison Office of Europol
Slovak Republic	36	9	Colombia	27	11
Hungary	45	11	Norway	46	13
Cyprus	35	9	Bulgaria	8	0
Lithuania	22	4	Iceland	17	0
Czech Republic	31	7	Romania	1	0
Slovenia	24	2			
Poland	17	1			
Estonia	20	1			
Latvia	13	0			
Malta	1	1			

<sup>39</sup> Footnote 21 applies to this Annex as well. Figures are displayed as per end of 2004.

<sup>40</sup> See explanations referring to Annex 2.

<sup>41</sup> Europol has made clear to the cooperation partners within the US law enforcement authorities that handling of correspondence with third states is beyond the scope of the cooperation agreements which foresee Europol to act for Member States only. The concerned US law enforcement agencies have always accepted the collaboration through the Europol channel.

### 1. Quality methodology in general<sup>42</sup>

Whether correspondence is forwarded or not depends on the assessment of its content. Correspondence rated unsatisfactory requires that the sender be consulted first for additional clarification/information. Poor requests are not forwarded to the desired audience, but are returned to the sender with appropriate explanations.

Content Rating	Assessment criteria	Action
Excellent	Request/reply is outstanding: complete, clear, accurate, adequate information	Forward to appropriate counterparts
Good	Complete, clear, accurate, adequate request/reply	Forward to appropriate counterparts
Satisfactory	Clear, appropriate request/reply	Forward to appropriate counterparts
Unsatisfactory	Incomplete, unclear request/reply	Consult sender; forward later
Poor	No relevance for intended recipient, inappropriate channel, no mandate, no legal framework, duplicate request	Consult sender; request/reply/information is returned

<sup>42</sup> This mechanism has been put in place since 1 January 2004. Figures are covering the period until the end of 2004. The standards and criteria utilised by Europol for this assessment are not applied by US law enforcement authorities and are therefore not endorsed by the USA. The figures given under items 4 and 5 of this Annex are based on statistical material compiled solely by the Liaison Office of Europol in Washington D.C./USA; where available from US law enforcement authorities, data have been cross-checked to allow for statistics that are accurate to the extent possible. No centralised statistics are collected by the USA on the number of transactions engaged in by agencies of the USA and Europol. The USA therefore do not concur in or endorse the accuracy of the data presented in this Annex.

## 2. Methodology in relation to the rating of a request

Quality Category	Excellent	Good	Satisfactory	Unsatisfactory	Poor
Timeliness	Real time	Not real time but in appropriate time	Delay < 60 days	Delay > 60 days but <120 days	<ul style="list-style-type: none"> <li>- Delay ≥ 120 days or</li> <li>- Not relevant anymore</li> </ul>
Content	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Complete request</li> <li>- Summarized question</li> <li>- Reference/Info-Ex n°</li> <li>- Handling code</li> <li>- Security level</li> <li>- Evaluation code</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Complete request</li> <li>- Summarized question</li> <li>- Reference/ Info-Ex n°</li> <li>- Handling code</li> <li>- Security level</li> <li>- Evaluation code</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- No reason for request or</li> <li>- Question not summarized or</li> <li>- No handling code or</li> <li>- No evaluation code</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Incomplete request or</li> <li>- No/wrong reference/ Info-Ex n°</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Incomplete request even after attempted follow-up</li> <li>- Request cannot be forwarded to counterparts</li> <li>- Duplicate request</li> </ul>
	<u>Clearness</u> <ul style="list-style-type: none"> <li>- Background information</li> <li>- Clear request</li> <li>- Clear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- Background information</li> <li>- Clear request</li> <li>- Clear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- Background information</li> <li>- Clear request</li> <li>- Clear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- No background information or</li> <li>- Unclear request or</li> <li>- Unclear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- N/a</li> </ul>
	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Sufficient information</li> <li>- Correct information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Sufficient information</li> <li>- Correct information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Sufficient information</li> <li>- Correct information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Insufficient information or</li> <li>- Incorrect information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- N/a</li> </ul>
	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Inappropriate audience or</li> <li>- Inappropriate channel or</li> <li>- No mandate</li> </ul>
	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Not existent</li> </ul>

### 3. Methodology in relation to the rating of a reply

Quality Category	Excellent	Good	Satisfactory	Unsatisfactory	Poor
Timeliness	Real time	Not real time but in appropriate time	Delay < 60 days	<ul style="list-style-type: none"> <li>- Delay ≥ 60 days but &lt;120 days or</li> <li>- Intermediaries/layers &amp; lack of secure lines caused delays &gt; 30 days</li> <li>- Pending replies ≥ 60 days but &lt; 120 days</li> </ul>	<ul style="list-style-type: none"> <li>- Delay ≥ 120 days or</li> <li>- ‘No-reply’ case is closed &amp; rated poor after it has been pending for 120 days or more and is no longer relevant</li> <li>- Pending replies ≥ 120 days</li> </ul>
Content	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Complete reply</li> <li>- Reference/Info-Ex n°</li> <li>- Handling code</li> <li>- Security level</li> <li>- Evaluation code</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Complete reply</li> <li>- Reference/Info-Ex n°</li> <li>- Handling code</li> <li>- Security level</li> <li>- Evaluation code</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- No handling code or</li> <li>- No evaluation code</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Incomplete reply or</li> <li>- No/ wrong reference/ Info-Ex n°</li> </ul>	<u>Completeness</u> <ul style="list-style-type: none"> <li>- Incomplete reply even after attempted follow-up;</li> <li>- Reply cannot be forwarded to counterparts</li> </ul>
	<u>Clearness</u> <ul style="list-style-type: none"> <li>- Background information</li> <li>- Clear reply</li> <li>- Clear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- Background information</li> <li>- Clear reply</li> <li>- Clear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- Background information</li> <li>- Clear reply</li> <li>- Clear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- No background information or</li> <li>- Unclear reply or</li> <li>- Unclear language</li> </ul>	<u>Clearness</u> <ul style="list-style-type: none"> <li>- N/a</li> </ul>
	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Sufficient information</li> <li>- Correct information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Sufficient information</li> <li>- Correct information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Sufficient information</li> <li>- Correct information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- Insufficient information or</li> <li>- Incorrect information</li> </ul>	<u>Accuracy</u> <ul style="list-style-type: none"> <li>- N/a</li> </ul>

Quality Category	Excellent	Good	Satisfactory	Unsatisfactory	Poor
	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Appropriate audience</li> <li>- Appropriate channel</li> <li>- Within Europol's mandate</li> </ul>	<u>Adequacy</u> <ul style="list-style-type: none"> <li>- Inappropriate audience or</li> <li>- Inappropriate channel or</li> <li>- No mandate</li> </ul>
	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Existent</li> </ul>	<u>Legal framework</u> <ul style="list-style-type: none"> <li>- Non-existent legal framework</li> </ul>



**4. Overall quality rating concerning information/ intelligence and requests provided to the Liaison Office of Europol in the USA for onward transmission to US law enforcement authorities**

(Including Serious Crime Department, Liaison Bureaux of EU Member States and third states liaison at Europol)

432 out of 509 evaluated exchanges were rated excellent, good, or satisfactory on timeliness and content ⇨ 85%.

<b>Content</b>	<b>Timeliness</b>					<b>Total</b>
	Excellent	Good	Satisfactory	Unsatisfactory	Poor	
Excellent	94	10	1	0	0	105
Good	12	286	12	0	12	322
Satisfactory	11	1	5	3	2	22
Unsatisfactory	3	12	2	1	1	19
Poor	6	26	0	2	0	34
Pending	0	0	0	1	6	7
<b>Total</b>	126	335	20	7	21	509

## 1. Overview on handling codes

<b>Handling Codes</b>	
<p><b>This information may be transmitted or utilised only by Europol and the competent authorities of the Member States in order to prevent and combat crimes falling within the competence of Europol and to prevent and combat other serious forms of crime.</b></p>	
<p><b>This information will be deleted on _____ unless new information is added that requires continued storage.</b></p>	
<p><i>Additional restrictions/permissions (optional):</i></p>	
<input type="checkbox"/>	<p><b>H1</b> For use as evidence in judicial proceedings, the provider must be consulted.</p>
<input type="checkbox"/>	<p><b>H2</b> The provider must be consulted before this information is used and/or disseminated.</p>
<input type="checkbox"/>	<p><b>H3</b></p> <p><b>Purpose of Transmission</b></p> <p><input type="checkbox"/> AWF</p> <p><input type="checkbox"/> Europol – The (Interim) Information System</p> <p><input type="checkbox"/> On the request of &lt;none&gt;</p> <p><input type="checkbox"/> Other purpose:</p> <p><b>The following additional permission shall apply:</b></p> <p><input type="checkbox"/> This information may be disseminated to all third States and third bodies that have concluded a cooperation agreement with Europol</p> <p><input type="checkbox"/> This information may be disseminated to ICPO Interpol</p> <p><input type="checkbox"/> Other permission:</p> <p><b>The following additional restrictions shall apply:</b></p> <p><input type="checkbox"/> The provider must be informed after this information was used</p> <p><input type="checkbox"/> This information cannot be disseminated to or used by Non Eu Member States</p> <p><input type="checkbox"/> This information cannot be disseminated to or used by International Organisations</p> <p><input type="checkbox"/> This information cannot be disseminated to or used by Specific States:</p> <p><input type="checkbox"/> This information may not be disseminated to a third State or body without prior consultation and approval of the supplier</p> <p><input type="checkbox"/> Other restriction:</p>

## 2. Overview on Europol's classification levels

### Information on Europol terminology on handling and usage of data

#### Europol Protection Levels

(Legal basis: Article 8 Europol Rules on Confidentiality; OJEC 1999/C 26/02; 2003/C 152/01)

All information processed by or through Europol, except information which is expressly marked or is clearly recognisable as being public information, is subject to a **basic protection level** within Europol as well as in the Europol Member States. Information requiring additional security and confidentiality measures is subject to a Europol classification level. The Europol classification levels are the following:

**Europol Restricted:** This classification is applied to information and material the unauthorised disclosure of which could be disadvantageous to the interests of Europol or of one or more Europol Member States.

**Europol Confidential:** This classification is applied to information and material the unauthorised disclosure of which could harm to the essential interests of Europol or of one or more Europol Member States.

**Europol Secret:** This classification is applied only to information and material the unauthorised disclosure of which could seriously harm the essential interests of Europol or of one or more Europol Member States.

**Europol Top Secret:** This classification is applied only to information and material the unauthorised disclosure of which could cause exceptionally grave prejudice to the essential interests of Europol or of one or more Europol Member States.

## 3. Evaluation codes (assessment of the source and of the information)

1. The source of the information shall be indicated as far as possible on the basis of the following criteria:

- (A) Where there is no doubt of the authenticity, trustworthiness and competence of the source, or if the information is supplied by a source who, in the past, has proved to be reliable in all instances;
- (B) Source from whom information received has in most instances proved to be reliable;
- © Source from whom information received has in most instances proved to be unreliable;
- (D) The reliability of the source cannot be assessed.

2. The reliability of the information shall be indicated as far as possible on the basis of the following criteria:

- (1) Information whose accuracy is not in doubt;
- (2) Information known personally to the source but not known personally to the official passing it on;
- (3) Information not known personally to the source but corroborated by other information already recorded;
- (4) Information which is not known personally to the source and cannot be corroborated.