

Brussels, 26 February 2002

6648/02

LIMITE

**CATS 6
USA 7**

NOTE

from : Presidency
To : Coreper / Council

No. prev. doc. : 6438/1/02 CATS 5 USA 4 REV 1 RESTREINT UE

Subject : Draft negotiation mandate with USA on judicial cooperation in criminal matters

During the informal meeting of the Ministers of Justice and Home Affairs, in Santiago de Compostela, on 14 and 15 February 2002, the Ministers gave their political endorsement to the process of negotiating an agreement with the US on judicial cooperation in criminal matters and committed themselves to the opening of negotiations with the US as soon as possible. They underlined the necessity of including appropriate safeguards in any future agreement.

On that basis, the Presidency has submitted a draft negotiation mandate (see doc 6438/02 CATS 5 USA 4 RESTREINT UE) to the meeting of the Article 36 Committee on 21 - 22 February 2002.

At the meeting of CATS, several delegations, while welcoming the fact that the Presidency had submitted a text for a mandate, underlined that the issues were sensitive and that they needed more time to examine it before being able to adopt any mandate at the meeting of the Council. Some delegations also underlined the need for the Union to know in advance its position, before any formal negotiations were carried out.

The Presidency has issued a revised draft negotiation mandate (see doc 6438/1/02 CATS 5 USA 4 REV 1 RESTREINT UE) to take account of the more technical remarks made by delegations but also to strengthen and clarify the draft on a number of points, in particular in relation to safeguards. It also clarifies the procedure foreseen for the negotiations.

The Presidency suggests also that the work be carried out in two phases. The first phase would be the definition of possible scope and elements of one or several agreements. In the second phase the Presidency would request a negotiation mandate when these elements have been further defined.

On the basis of this information, and on the draft mandate as it stands in doc 6438/1/02 CATS 5 USA 4 REV 1 RESTREINT UE, Coreper/Council is invited to:

- a) while noting that further work will have to be carried out on the detail, give its agreement in principle to the orientations set out in the above mentioned document,
- b) request the Presidency to examine this issue in a forthcoming meeting of the Article 36 Committee, assisted, where appropriate, by experts on cooperation with the USA with a view further to flesh out the position of the EU in the future discussions with the USA,
- c) ask Coreper to define rapidly after that meeting the possible scope and elements of one or several agreements on cooperation in criminal matters between the European Union and the United States,
- d) agree that on the basis of this work, the mandate should be adopted as soon as possible and, at the latest, during the JHA Council on 25 April 2002,
- e) agree that the Presidency, assisted by the General Secretariat, together with the future Presidency and the Commission, should continue the informal exploratory talks with the US side, and feed the results of these talks into the process.