



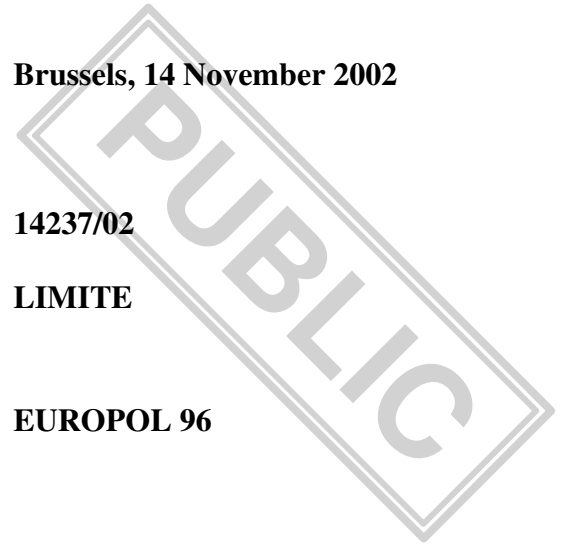
**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 November 2002

14237/02

LIMITE

EUROPOL 96



"I/A" ITEM NOTE

from : Presidency

to : COREPER/Council

No. prev. doc. : 13689/02 EUROPOL 82 + ADD 1; 13696/02 EUROPOL 83; 13996/02
EUROPOL 95 + COR 1 + ADD 1

Subject : Draft Supplemental Agreement between the United States of America and
Europol on the exchange of personal data and related information + Exchange of
Letters related to the Supplemental Agreement

In accordance with Article 42(2), Article 10(4) and Article 18 of the Convention on the establishment of a European Police Office (Europol Convention)¹ Europol can establish and maintain relations with third States and bodies.

The Council Act of 3 November 1998 laying down the Rules governing Europol's external relations with third States and non-European Union related bodies², the Council Act of 3 November 1998 laying down the Rules concerning the receipt of information by Europol from third parties³, as well as, the Council Act of 12 March 1999 adopting the Rules governing the transmission of personal data by Europol to third States and third bodies⁴, have laid down detailed provisions for the conclusion of agreements between Europol and third States and bodies.

¹ OJ C 316, 27.11.1995, p. 2.

² OJ C 26, 30.1.1999, p. 19.

³ OJ C 26, 30.1.1999, p. 17.

⁴ OJ C 88, 30.3.1999, p. 1.

By Council Decision of 27 March 2000 the Director of Europol has been authorised to enter into negotiations on agreements with third States and non-EU-related bodies⁵.

On 6 December 2001 the Council (Justice and Home Affairs) approved an agreement between Europol and the United States of America providing for the exchange of strategic and technical information. In December 2001 the Director was furthermore authorised by the Council to enter into negotiations with the United States of America on an agreement providing for the exchange of personal data.

On the basis of the aforementioned legal provisions, the Director of Europol has completed the negotiations with the United States of America. The draft Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information is contained in document 13689/02 EUROPOL 82.

The opinion of the Joint Supervisory Body of Europol in respect of the draft Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information is contained in document 13689/02 EUROPOL 82 ADD 1.

An explanatory note prepared by Europol regarding the draft Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information is contained in document 13696/1/02 EUROPOL 83 REV 1.

Document 13996/02 EUROPOL 95 + COR 1 contains a draft Exchange of Letters related to the Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information, while document 13996/02 EUROPOL 95 ADD 1 contains the opinion of the Joint Supervisory Body in respect of the draft Exchange of Letters.

At its meeting 29 – 30 October the Management Board decided to submit the draft Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information and the opinion of the Joint Supervisory Body to the Article 36 Committee. At its meeting 7 – 8 November 2002 the Article 36 Committee discussed the draft agreement and the draft Exchange of Letters.

Against this background, COREPER is requested to invite the Council to authorise the Director of Europol to conclude the draft Supplemental Agreement between the United States of America and Europol on the exchange of personal data and related information as contained in document 13689/02 EUROPOL 82.

⁵ OJ C 106, 13.4.2000, p. 1.

Furthermore, COREPER is requested to submit the following to the Council for information:

- The opinion of the Joint Supervisory Body in respect of the draft Supplemental Agreement between Europol and the United States of America on the exchange of personal data and related information (document 13689/02 EUROPOL 82 ADD 1).
- The draft Exchange of Letters related to the Supplemental Agreement between Europol and the United States of America on the exchange of personal data and related information (document 13996/02 EUROPOL 95 + COR 1), and
- The opinion of the Joint Supervisory Body in respect of the draft Exchange of Letters (document 13996/02 EUROPOL 95 ADD 1).

Finally, COREPER is requested to invite the Council to inscribe the following declaration in the minutes of the meeting:

“The Council is of the view that the provisions of the Agreement on liability for damages resulting of the transmission of information under the Agreement should be revisited, as soon as it becomes apparent that such liability could have implications for the general budget of the European Communities.”
