



Presidency Secretariat

INFORMAL JHA-MINISTERIAL MEETING
COPENHAGEN, 13 - 14 SEPTEMBER 2002

BACKGROUND PAPERS

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SCHENGEN AND THE ENLARGEMENT

1. Introduction.

The preparation for full implementation of the Schengen acquis is an important task for the candidate countries. The candidate countries have been seriously preparing themselves to meet the requirements of the Justice and Home Affairs acquis in this field. The Danish Presidency would like to initiate the discussion on the introduction of an indicative timetable for the evaluation of the candidate countries' full implementation of the Schengen acquis.

2. The enlargement of the European Union.

Enlargement is the absolutely vital task facing the European Union. It is the goal to conclude accession negotiations with up to 10 countries before the end of 2002. Maximum progress must also be made in the negotiations with those countries, which will not be concluding their negotiations before the end of 2002.

The conditions for the accession to the European Union – the so-called Copenhagen criteria – were laid down at the European Council meeting in Copenhagen in 1993.

The Copenhagen criteria set the conditions, which the candidate countries must fulfil in order to become members of the European Union. A stable political democracy, protection of minorities and respect for human rights are required. In addition, countries must have a functioning market economy and economic strength to cope with competitive pressure within the EU internal market. Finally, the new member countries must be able to take on the obligations of EU membership. This means that they must incorporate the EU's comprehensive body of rules into their national legislation and that the new laws must be enforced.

The Copenhagen criteria set the course for the reform process, which the candidate countries initiated in order to fulfil the conditions for EU membership. Fulfilling the conditions is a very demanding exercise that requires adjustments in all sections of society. The candidate countries have made impressive progress, and this has been confirmed by the Commission on a number of occasions, e.g. in its progress reports of November 2001. The reform process is now so far advanced in many of the candidate countries that in October 2002 the Commission will give its opinion on the countries with which negotiations may be concluded at the end of 2002. Ten of the candidate countries (Poland, Hungary, Czech Republic, Slovakia, Slovenia, Estonia, Latvia, Lithuania, Cyprus and Malta) are now close to fulfilling the conditions for EU membership.

Accession negotiations with the candidate countries were launched in 1998 – 2000 and the European Council has emphasised that it is determined to conclude the accession negotiations by the end of 2002 at the latest with those candidate countries, which are ready, so that they can take part in the elections to the European Parliament in 2004 as members. A timetable for conclusion of the negotiations at the end of 2002 has been drawn up, and by the end of 2002 the European Council will decide on the candidate countries with which negotiations can be concluded based on the recommendations given by the Commission.

The progress made by the candidate countries in the reform process means that it has been possible to close the negotiations on by far the greater part of the areas covered by EU co-operation. It is this progress that may make it possible to conclude negotiations with the first countries before the end of 2002.

Not all candidate countries are expected to be able to conclude accession negotiations before the end of 2002. A particular effort must therefore be made to ensure that the progress in those countries towards membership of the EU is continued and intensified. A “road map” must be drawn up for the further negotiations.

As a candidate country Turkey forms part of the enlargements process. Like other candidate countries Turkey must fulfil the political conditions for membership in order for negotiations to commence.

In parallel with the enlargement the EU has to strengthen relations with Russia and the countries that will become the new neighbouring countries to the East: Ukraine, Belarus and Moldova.

3. Justice and Home Affairs.

The Justice and Home Affairs co-operation is not just an important element in the European Union. It is very much the foundation on which further co-operation should be built. Especially in the light of the forthcoming enlargement with the candidate countries the Justice and Home Affairs co-operation is of special importance and relevance.

The overall objective is to ensure freedom, security and justice in an enlarged European Union. The Justice and Home Affairs Council of the European Union has played an active role in the enlargement process and several initiatives have been launched in order to contribute to the process and facilitate the enlargement.

On 28 May 1998 the Justice and Home Affairs Council adopted conclusions on the application of the rule of law. In view of the enlargement process, the conclusions contain important references

as to the fundamental requirements for judicial systems and law enforcement authorities in democratic states subject to the rule of law.

During a ministerial meeting on 28 May 1998 between the Ministers of Justice and Home Affairs of the Member States and the candidate countries a pre-accession pact on organized crime was agreed upon.

The pre-accession pact includes important declarations as to the fight against organised crime and other forms of serious crime, including legal, practical and operational requirements, which will have to be adopted and implemented by both the Member States and the candidate countries.

A joint group comprising experts from the Member States and the candidate countries has been set up in order to monitor and evaluate the implementation of the pre-accession pact.

On 29 June 1998 the Council adopted a joint action establishing a mechanism for collective evaluation of the implementation and application of the Justice and Home Affairs acquis in the candidate countries.

In accordance with the joint action a Council expert group has been set up. Furthermore, the General Secretariat of the Council has been provided with special expertise in order to assist in the collective evaluation of the candidate countries.

Based on information provided by the Member States, the Commission and the candidate countries as well as on ad hoc evaluation visits to the candidate countries, the expert group has elaborated extensive reports on the situation in each of the candidate countries as to the implementation and application of the Justice and Home Affairs acquis. The reports have been updated by the expert group on a regular basis. The last three up-dated evaluation reports on Latvia, Lithuania and Malta are expected to be finalized before the end of 2002.

The acquis of the European Union in the field of Justice and Home Affairs, including the international instruments, which has formed the basis for the development within the European Union, has been carefully determined by the Council.

Furthermore, meetings between Justice and Home Affairs Ministers of the Member States and the candidate countries have been held on a regular basis.

The ministerial meetings have provided an opportunity for an on-going discussion on the progress in the candidate countries as to the implementation and application of the Justice and Home Affairs acquis in the candidate countries.

Joint conclusions and declarations have been agreed upon during the ministerial meetings, e.g. the 12 commitments in the fight against trafficking in human beings, which was agreed upon on 28 September 2001, and the joint declaration on drugs, which was agreed upon on 28 February 2002.

The Phare programme, as one of the three pre-accession instruments financed by the European Communities, covers the applicant countries of central Europe. The programme has been providing support to the central European countries since 1989. This support has also covered border management issues, e.g. infrastructure and training of border guards. Since 1992 Phare has supported activities in the fight against drugs and from 1997 Justice and Home Affairs in general. Today more than 400.000 € has been allocated to various JHA projects in the candidate countries of Central Europe including twinning projects.

The financing programmes adopted within the Justice and Home Affairs co-operation of the European Union (GROTIUS, STOP, OISIN, FALCONE, ODYSSEUS), which provides for Community financing of specific activities in order to enhance and facilitate the practical co-operation, have made it possible to include candidate countries in such specific activities in the field of Justice and Home Affairs. The substitution of the existing programmes with comprehensive framework programmes will strengthen the participation of the candidate countries.

Europol is a focal point for the police co-operation between Member States of the European Union, and the Europol Convention enables Europol to establish co-operation with countries outside the European Union based on specific co-operation agreements approved by the Council.

Europol has been authorized to open negotiations on co-operation agreements with all candidate countries, and such agreements, which also provides for the exchange of personal data, has already been concluded with Estonia, Poland, Czech Republic, Hungary, Slovenia. Negotiations with the remaining candidate countries are progressing.

The Council decision on Eurojust also provides for the possibility of establishing co-operation between Eurojust and countries outside the European Union based on specific co-operation agreements. Both Eurojust and the candidate countries will have to reflect upon, whether negotiations on such co-operation agreements should be initiated.

Furthermore, the candidate countries are included in the activities of CEPOL – the European Police Academy based on the Council decision on establishing CEPOL.

The candidate countries will have to continue their efforts to implement the Justice and Home Affairs acquis, including Schengen. In particular the candidate countries should strengthen their

efforts to ensure an effective control at the future external borders of the European Union and to enhance the quality and capacity of the judiciary. Moreover, the fight against organised crime (in particular money laundering and trafficking in human beings), corruption and terrorism has to be intensified.

Considerable progress has been made in all areas and future efforts will focus on supporting the candidate countries in establishing an appropriate level of control at the external borders and to set up the necessary administrative structures to enforce the *acquis*. In June 2002, the Commission adopted reports on administrative and judicial capacities in each candidate country.

Regarding the future external borders, the Commission as well as the Member States must continue to assist the candidate countries in achieving a high level of border protection.

Candidate countries must also be assisted in developing an effective, reliable and service oriented police force, as well as an efficient judiciary capable of maintaining procedural safeguards and respecting the rule of law. This will include the promotion of adequate coordination and co-operation between the various law enforcement agencies.

Concluding the negotiations with the candidate countries on their participation in the European Monitoring Centre for Drugs and Drug Addiction in Lisbon must be seen as part of the agreed increased effort against drug-related crimes and drug abuse.

The co-operation between the candidate countries and the European Anti-Fraud Office (OLAF) is developing and their co-operation in the fight against fraud and corruption should be intensified.

Efforts are made to include the candidate countries in the practical EU co-operation on Justice and Home Affairs and during the Danish Presidency of the European Union the following activities are scheduled:

- Seminar on Integration, 4 - 5 July 2002, Copenhagen. Candidate countries have attended
- Seminar on Civil Law, 8 - 9 July 2002, Copenhagen. Candidate countries have attended
- Meeting of CIREFI and candidate countries, 23 September 2002, Brussels
- Seminar on Criminal Law, 26 - 27 September 2002, Nyborg. Candidate countries will be invited
- Meeting of CATS/SCIFA Troika and candidate countries, 4 October 2002, Brussels

- COTER Working Party on Terrorism Troika meeting (II Pillar) with the candidate countries, 4 October 2002, Brussels
- Seminar on Crime Prevention, 7 - 8 October 2002, Aalborg. Candidate countries will be invited
- Meeting of JHA Ministers from EU and candidate countries, 14 - 15 October 2002, Luxembourg
- Meeting of EU heads of border control services and with the participation of the candidate countries in the margin of SCIFA meeting, 22 October 2002, Brussels
- Seminar on Police, 4 - 5 November 2002, Aalborg. Candidate countries will be invited
- Meeting in the Horizontal Working Party on Drugs with the candidate countries, 12 November 2002, Brussels
- European Conference on the Implementation of the Anti-discrimination Directive into National Law, 14 - 15 November 2002, Copenhagen
- Meeting in the PAPEG (MDG plus candidate countries) 20 November 2002
- The European Council, 12 - 13 December 2002, Copenhagen
- Schengen-Evaluation Group meeting, Autumn 2002, Brussels

The Justice and Home Affairs chapter of the accession negotiations (Chapter 24) has been opened with all countries, except Turkey, and has been provisionally closed in November 2001 with Hungary and in December 2001 with the Czech Republic, Cyprus and Slovenia. In March 2002 the chapter has been provisionally closed with Estonia and Malta, in April 2002 with Lithuania and in June 2002 with Latvia and Slovakia. In July 2002 the chapter has been provisionally closed with Poland. The Commission and Member States experts will closely monitor the commitments taken by these countries. This will be done through monitoring tables, peer review missions, TAIEX seminars and technical meetings on the new acquis. The first Common Position for Romania is adopted and a revised second Common Position has been adopted for Bulgaria.

4. Schengen co-operation.

The Schengen co-operation based on the Schengen Agreement from 1985 and the Schengen Convention from 1990 has made it possible to implement the free movement of persons across the internal borders within the Schengen area, while at the same time targeting and intensifying the fight against illegal immigration and cross-border crime.

The Schengen co-operation constitutes an important and necessary development, and many European citizens see the Schengen co-operation as a natural and indispensable part of their everyday life. However, this is not the case for criminals who have been apprehended in the Schengen states or unwanted persons who have been barred from entering the Schengen area thank to alerts in the Schengen Information System. The Schengen co-operation also implies a close co-operation regarding the control of persons at the external border, which is seen as a joint task and responsibility to be carried out based on common standards.

Following the entry into force of the Amsterdam Treaty the Schengen co-operation now forms an integral part of the Justice and Home Affairs co-operation within the European Union. Detailed provisions on the integration of the Schengen co-operation are laid down in a protocol annexed to the Amsterdam Treaty.

By two Council decisions of 20 May 1999 the Schengen acquis has been defined and the legal basis for the provisions of the Schengen acquis has been determined. A separate Council decision also of 20 May 1999 contains specific rules as to the Joint Supervisory Authority set up under Article 115 of the Schengen Convention.

Norway and Iceland are associated in the implementation, application and development of the Schengen co-operation. The association agreement with Norway and Iceland was adopted on 17 May 1999 and a Council decision of 17 May 1999 contains certain implementing measures.

The Schengen acquis is presently being applied by Belgium, The Netherlands, Luxembourg, France, Germany, Spain, Portugal, Austria, Italy, Greece, Sweden, Finland, Denmark and – based on the association agreement – Norway and Iceland.

By decisions of 29 May 2000 and 28 February 2002 the Council approved that the United Kingdom and Ireland respectively will participate partly in the Schengen co-operation as from a date of implementation to be determined by the Council.

Finally, the Council on 17 June 2002 decided to authorize the Commission and the Presidency to open negotiations with Switzerland on the possible association of Switzerland in the implementation, application and development of the Schengen co-operation.

The Schengen Information System constitutes an essential tool for the application of the provisions of the Schengen acquis and should also be made operational for all the new member states.

However, the Schengen Information System in its current form has the capacity to service no more than 18 participating States. It is at present operational for 13 Member States and 2 other

States (Iceland and Norway) and is intended to become operational for the United Kingdom and Ireland in the foreseeable future. It has in other words not been constructed so as to service the increased number of Member States of the European Union after its enlargement.

For this reason, and in order to benefit from the latest developments in the field of information technology and to allow for the introduction of new functions, it is necessary to develop a new, second generation Schengen Information System (SIS II). The Commission together with the Member States as well as the relevant Council Working Parties has initiated the technical and legal work on developing and establishing the new system, which is currently estimated to be operational by the end of 2005 at the earliest.

According to the Schengen protocol, the candidate countries have to accept the Schengen acquis in full on accession. However, the Schengen rules also make clear that a separate and unanimous Council decision will be needed before the Schengen acquis can be implemented in full, including the key question of the lifting of internal border control. There is thus a two-step process for the implementation of the Schengen acquis. There are some provisions of the Schengen acquis, which have to be applied upon accession, including those relating to the high level of border control, while other Schengen provisions are so intrinsically linked to the lifting of internal border controls that they cannot be implemented upon accession but only once internal border controls are lifted. Nevertheless, an early implementation of these provisions is of the utmost importance, and the candidate countries have been encouraged to start early preparations.

In autumn 2001 the Commission drafted a note on the issue of the Schengen acquis in the context of the enlargement of the European Union. The note was discussed in the Enlargement Working Group and was confirmed by Coreper in September 2001. The note contains an annotated List detailing those provisions of the Schengen acquis, which should be applied upon accession and those provisions which should be implemented simultaneously with the lifting of internal border controls at the latest.

In the context of accession negotiations on chapter 24 on Justice and Home Affairs, each candidate was asked to provide a Schengen Action Plan covering all policy areas included in the Schengen acquis and setting out objectives, the actions needed, a timetable and the state of play. A distinction is made between the requirements that must be applied upon accession to the EU and those, which are connected to the Council decision for the lifting of the internal border control. For the candidate countries, the Action Plan provides the opportunity to demonstrate their commitment and planning for the full implementation of Schengen and for the EU, the Action Plan helps to assess the readiness of the candidates for the second phase. The candidates are committed to updating their Schengen Action Plans on a regular basis.

The Council will only decide on the full implementation of the Schengen acquis in a new member state, when the concerned new member state is able to fulfil all the requirements in the Schengen acquis and have been subject to a positive outcome of an evaluation procedure. The evaluation procedure consists of a number of evaluation visits in the new member state. The evaluation visits concern, among other things, the Schengen Information System and the external borders. As part of the evaluation procedure the concerned new member state will also be asked to answer a very extensive questionnaire covering the different areas of the Schengen acquis. The evaluation procedure will only be initiated for a new member state on the request of the new member state itself and will be prepared in close co-operation with the concerned new member state.

In May 2001 the Council agreed on an action programme for the continuation of the work on Schengen evaluation and implementation for the years to come.

According to this action programme a Catalogue of recommendations for the proper application of the Schengen acquis and of best practice is to be drawn up covering all current areas of co-operation within Schengen. The purpose of the Catalogue is not to create new requirements but to clarify and detail the existing Schengen acquis and to provide an example for those States acceding to Schengen and those fully applying to the Schengen acquis.

Part of the Catalogue (a section on borders, to which recommendations and best practices in the field of removal and readmission was attached) was handed over to the candidate countries at a Council meeting on 28 February 2002.

A second part of the Catalogue as regards the Schengen Information System/Sirene and visa co-operation will be drawn up during the Danish Presidency, and like the first part handed over to the candidate countries as soon as the Council has approved the Catalogue.

EUROPEAN ACTION AGAINST DRUGS

1. Introduction.

In December 1999 the European Council adopted the European Union Drugs Strategy (2000 – 2004), which lays down the overall guidelines and objectives for the European effort in the drugs sphere. A EU Action Plan on Drugs, which transposes the strategy into concrete actions, was adopted by the European Council in June 2000.

According to the Action Plan, the Commission is to undertake a mid-term evaluation of the implementation of the Action Plan on Drugs and the Drugs Strategy. The evaluation will result in a report to the Copenhagen European Council in December 2002.

Drug trafficking and the abuse of drugs must be seen as major social, health and law enforcement challenges facing the Member States of the European Union. Efficient action against drugs is therefore required.

The present EU Action Plan on Drugs is a useful catalogue of desirable measures to tackle the drugs problem. It could, however, be argued that it is too all-embracing for its elements to be achieved in full and that it lacks a clear statement of priorities, targets and timetable.

In the view of the Presidency, the mid-term review of the implementation of the EU Action Plan on Drugs and the Drugs Strategy offers an opportunity to examine and adjust, as appropriate, the priorities and political guidelines for future European action against drugs.

2. The European Union Drugs Strategy.

In December 1999 The European Council adopted the European Union Drugs Strategy (2000-2004). The Strategy forms the basis of the overall approach of the European union to the drugs issue during the five-year period of its duration. It follows from the strategy, that the Union should follow a multidisciplinary strategy in which supply and demand reduction are seen as mutually reinforcing elements and that the Union should increase its efforts to reduce the negative consequences of drug abuse and to combat drug related crime.

The strategy lists 11 principles and objectives and 6 main targets of the EU approach to the drugs problem. The strategy further lists 4 main characteristics of the EU approach. It finally gives and general characteristic of actions to be taken in regard to demand reduction, supply reduction and international co-operation. In regard to supply reduction it specifically points to the issues of

money laundering, control of chemical precursors, new synthetic drugs, co-operation and alternative development and the use of new communication systems.

3. The EU Action Plan on Drugs.

On the basis of the strategy the European Union Action Plan on Drugs (2000-2004) was elaborated and endorsed by the European Council in Feira in June 2000. The Action Plan transposes the strategy into detailed actions and defines the measures, which will have to be taken by the European Union and the Member States over the five years covered by the strategy.

According to the Action Plan its primary objectives are to provide a guide to the activities of the European Union over the next five years in order to follow the EU Drugs Strategy (2000-2004) and to provide a solid base for the evaluations of the EU Drugs Strategy (2000-2004) to be carried out by the Commission.

The Action Plan in the first place addresses itself to the European Union institutions and bodies such as the Council, the Commission, Europol and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), but it also provides an overall political framework with encouragements for national action in full respect of the subsidiarity principle, national rules and structures as well as budgetary means available.

The plan covers the following main issues: Co-ordination, information and evaluation, reduction of demand, prevention of drug use and of drug related crime, supply reduction and international aspects. These main issues are separated into 98 points of directions and recommendations.

It is emphasised in the Action Plan that in regard to demand reduction, the prevention of drug abuse should address both licit and illicit drugs. In regard to supply reduction no general distinction is made between different types of illicit drugs.

4. Initiatives adopted at EU level following the Action Plan.

A large number of initiatives have been adopted at EU level to implement the Action Plan since the endorsement of the plan in 2000. Among the most important initiatives adopted are the following:

- Resolution of the Council and of the Representatives of the Member States on the prevention of the recreational use of drugs.

- Council Recommendation on the need to enhance co-operation and exchanges of information between the various operational units specialising in combating trafficking in precursors in the Member States of the European Union.
- Council Recommendation on improving investigation methods in the fight against organised crime linked to organised drug trafficking: – Simultaneous investigations into drug trafficking by criminal organisations and their finances/assets.
- Council Resolution on the incorporation of drug prevention programmes in school curricula.
- Joint declaration of the Ministers of the European Union in association with the European Commission and the candidate countries on drugs.
- Council conclusions on training in the fight against drugs and drug addiction within the European Union.
- Council Regulation (EC) No 1116/2001 of 5 June 2001 amending Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.
- Council Recommendation on the alignment of law enforcement drug and diverted precursors seizure statistics.
- Studies into the traceability of precursors.
- Studies on drug-related offences committed via the Internet.
- Council Resolution on the implementation of the five key epidemiological indicators on drugs, developed by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).
- Council Decision of 28 May 2001 on the transmission of samples of controlled substances (2001/419/JHA).
- Swedish pilot project on the forensic profiling of samples of seized quantities of amphetamines (CASE).
- European information network on new drug-taking patterns and new drugs uses.
- Action plan on drugs between EU and Central Asia.

- Information on a procedure in accordance with Article 5 paragraph 1 of Joint Action adopted by the Council on 17 June 1997 on the basis of the former Article K.3 of the Treaty on the European Union concerning information exchange, risk assessment and the control by new synthetic drugs.
- Council conclusions on ketamine.
- Council conclusions on GHB.

5. Future initiatives.

Further to the above mentioned initiatives that has been adopted the following issues are currently under preparation and are expected to be concluded within the near future:

- Proposal for a Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking.
- Initiative by the Kingdom of Spain for the conclusion of a Convention on the suppression by customs administrations of illicit drug trafficking on the high seas.
- Draft Council Recommendation on treatment of criminal drug abusers as part of service of sentence.
- Draft Council Resolution on generic classification of new synthetic drugs.
- Proposal for a Council Recommendation on the prevention and reduction of risks associated with drug dependence.
- Draft Council Recommendation drawing up an implementing protocol on taking samples of seized drugs.
- Second round of mutual evaluations: Law enforcement and its role in the fight against drug trafficking.
- Evaluation of the joint action on new synthetic drugs.

6. Mid-term evaluation.

As stated above, it follows from the EU Action Plan on Drugs that the Commission is to carry out a mid-term evaluation on the fulfilment of the drugs strategy and the actions set out in the action plan. The evaluation should be presented to the European Council and the European-Parliament.

The Commission's information gathering is conducted in close co-operation with Member States, Europol and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the elaborating of an evaluation report will take place in close co-operation with the Horizontal Working Party on Drugs established by the Council.

In the course of the first semester of 2002 Member States have submitted extensive information on the national developments since the adoption of the strategy. Furthermore, the EMCDDA and Europol have on the basis of their statistical material been elaborating reports on European development. Along with an assessment of the achievements of the European Union since January 2000 these contributions will be incorporated into an evaluation report, which will be presented to the European Council in December 2002.

EU - US CO - OPERATION IN FIGHTING TERRORISM

1. Introduction.

One year after the terrorist attacks on the US on 11 September 2001, preventing and fighting terrorism is more important than ever. The Danish Presidency gives high priority to the common efforts in the fight against terrorism and will continue the implementation of the necessary measures in order to effectively prevent and combat terrorism. In that connection, the Presidency pays particular attention to the importance of strengthening the solidarity and intensifying the co-operation between the EU and the US in the fight against terrorism.

The US Attorney General, Mr John Ashcroft, has accepted the invitation by the Danish Presidency to attend the informal JHA-ministerial meeting in Copenhagen in order to discuss the EU-US co-operation in the fight against terrorism with his European colleagues. The meeting between the US Attorney General and the EU Justice and Home Affairs Ministers will provide an opportunity to jointly agree on political guidelines for strengthening and intensifying the EU-US co-operation in the fight against terrorism.

2. State of play.

Following the terrorist attacks on 11 September 2001, an extraordinary Council meeting (Justice and Home Affairs) was held on 20 September 2001, followed by an extraordinary meeting within the European Council on 21 September 2001, with a view to discuss the possibilities to strengthen the fight against terrorism. In that connection, the Council and the European Council adopted a number of conclusions regarding initiatives as part of strengthening the efforts in this field.

The initiatives have been compiled in a *road map*, which is regularly updated by the Presidency.

According to the conclusions an agreement between Europol and US authorities should be concluded as a first step providing for the exchange of strategic and technical information and as a second step providing for the exchange of personal data. The Director of Europol and US authorities signed the first agreement in December 2001. In December 2001 the Director was furthermore authorised by the Council to enter into negotiations with the US on an agreement providing for the exchange of personal data. In the light of the authorisation, Europol and the US have initiated negotiations on an agreement providing for the exchange of personal data.

Furthermore, negotiations on an agreement between the EU and the US on mutual legal assistance and extradition are pending.

Important legislative instruments approximating EU Member States' national laws on terrorism and implementing the principle of mutual recognition of criminal decisions relevant for combating terrorism have been agreed upon. A framework decision on combating terrorism and a framework decision on the European Arrest Warrant were adopted at the JHA Council meeting on 13 June 2002 and subject to parliamentary reservations political agreement was reached on a framework decision on the freezing of assets at the JHA Council meeting on 28 February 2002.

The EU supports the Indian proposal for elaborating within the United Nations a general convention against international terrorism, which should enhance the impact of the measures taken over the last twenty-five years under UN aegis. The first draft of a Comprehensive International Convention against Terrorism was submitted by India on the fifty-first session of the General Assembly in 1996. The draft for a comprehensive convention, which also intends to include offences covered under other anti-terrorism conventions, was proposed in order to accelerate the process of covering the entire gamut of terrorist crimes under a legal regime.

In the second half of 2001 substantive progress was made during the UN negotiations. Nevertheless, there are still some important, outstanding issues to be handled. At the sixth session on 28 January – 1 February 2002 in the Ad Hoc Committee, established by General Assembly resolution 51/210 of 17 December 1996, it became clear that the key issue in relation to the comprehensive convention is to resolve the text of article 18, which deals with the savings clause and exclusions from the scope of the convention.

The EU has been committed to strengthen the operational co-operation between Member States and between the EU and the US in order to effectively investigate and prosecute terrorists. In that connection, a number of steps have already been taken, including the establishment of a counter terrorism task force within Europol.

A first evaluation of the task force was carried out in April 2002 and a second evaluation of the task force is scheduled for the second half of 2002. In the light of that evaluation, the Council will take a decision – preferably before the end of 2002 – on the future of the task force.

Furthermore, the Presidency has tabled an initiative concerning common features of terrorists. The initiative also takes into account the possibility of co-operation with third states in this field.

As part of the decision to strengthen the operational co-operation between Member States with the full participation of Europol, it has been decided that Europol should produce a report on the security measures introduced by the Member State as part of the efforts to strengthen the fight against terrorism. A report on national security measures was presented to the Council at the Council meeting (Justice and Home Affairs) 13 June 2002.

Threat assessments and a list of terrorist organisations for the use of national law enforcement authorities responsible for the fight against terrorism has been elaborated within the EU and is being updated on a regular basis. An unclassified report on terrorism in Europe will be produced before the end of 2002.

3. Further initiatives.

During the Danish Presidency the implementation of the conclusions of the Council and the European Council will be given high priority. A number of initiatives have already been taken. However, further work is necessary to effectively strengthen the fight against terrorism, including strengthening of the co-operation with the US in this field.

The Presidency will work to conclude the **second agreement between Europol and the US** providing for the exchange of personal data. A temporary solution providing for the exchange of personal data between Europol and the US has been in place since 11 September 2001. However, this exchange of personal data – which in accordance with the Europol Convention can only take place in exceptional cases – must be followed up by the conclusion of a formal agreement between Europol and the US as soon as possible.

The Presidency has noted with satisfaction, that Europol and the US have made significant progress in the negotiations on the agreement. However, work will have to be done to finalise the agreement in order for the Director of Europol and the US authorities to be able to sign it before the end of 2002. Thus, the negotiations on the draft agreement should be finalised by the end of September 2002 with a view to initiate the necessary procedures in the Europol Management Board, the Joint Supervisory Body for Europol and – finally – the Council for the approval of the final draft agreement.

The events of 11 September 2001 emphasized the need for efficient co-operation between the EU and the US in the investigation and prosecution of terrorism. To this end, the EU Heads of State and Government have agreed, that negotiations on an **agreement between the EU and US on mutual legal assistance and extradition** should be initiated as soon as possible.

On 25 April 2002 the JHA Council approved a negotiation mandate and on 27 June 2002 Coreper established an Ad Hoc Expert Group, which is to follow the negotiations and assist the Presidency during the negotiations.

A first meeting has taken place in the Ad Hoc Expert Group in July 2002 and the next meeting will take place in September 2002.

Three negotiation meetings between the US and the EU have taken place until now and the negotiations are proceeding as planned. The intention of the Danish Presidency is to have completed the preliminary discussions on all subjects covered by the negotiation mandate by the end of September 2002.

The Danish Presidency finds it essential to ensure that an agreement between the US and the EU adds value to the existing co-operation between the US and the Member States of the European Union, which is based on bilateral agreements. Thus, the Danish Presidency concentrates on the subjects contained in the negotiation mandate, including the new forms of legal assistance, which modern technology has made possible, such as exchange of information on bank accounts and video conferencing.

Preliminary discussions with the US on some of the US priorities, such as extradition of own nationals, have been held and appropriate guarantees and safeguards have been addressed during these discussions.

Three more negotiation meetings between the US and the EU are scheduled during the Danish Presidency, and the Danish Presidency expects to achieve substantial progress in the negotiations before the end of 2002.

The Danish Presidency acknowledges the importance of a **comprehensive UN convention on international terrorism**.

At the last session in the Ad Hoc Committee on 28 January – 1 February 2002 it was recommended that the Sixth Committee, at the fifty-seventh session of the General Assembly, consider establishing a working group, preferably to be convened from 14 – 18 October 2002, to continue, as a matter of urgency, the elaboration of a draft convention.

It is the view of the Danish Presidency that the EU and the US should continue their close dialogue concerning the negotiations of the UN convention.

As part of the efforts to strengthen the operational co-operation between the EU and the US with a view to effectively investigate and prosecute terrorists, the Danish Presidency proposes to invite the US authorities to attend a meeting in the Terrorism Working Party during the second half of 2002. A similar meeting took place during the former Belgian Presidency in the aftermath of 11 September 2001.

The proposed meeting could focus on **threat assessments** and the possibility of developing EU-US co-operation on **common features of terrorists**.

The Danish Presidency acknowledges the importance of continuing the work already initiated by Europol in order to produce and update a report on the security measures introduced in the EU Member States. As appropriate the report could be presented to the Council on a regular basis.

The Danish Presidency acknowledges the importance of facilitating the operational and practical co-operation between the relevant law enforcement authorities in the EU and in the US. Experience shows that personal contacts and a basic knowledge of the relevant legal systems are vital to the efficiency of the practical co-operation.

In order to **strengthen operational co-operation between relevant law enforcement authorities in the US and in the EU Member States**, the Danish Presidency proposes that representatives from the competent authorities in the EU Member States and in the US meet on a regular basis, if possible every six months.

As a starting point, the Danish Presidency intends to invite US experts to attend the meeting of the European Judicial Network in Aarhus, Denmark, in December 2002.

Furthermore, the Danish Presidency intends to propose that US experts are invited to law enforcement seminars that take place within the EU, just as the Danish Presidency will propose that the US and the EU look into the possibilities of arranging joint seminars in the field of police and judicial co-operation.