



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 26 March 2010

7991/10

ENFOPOL 79

"I/A" ITEM NOTE

from:	General Secretariat
to:	COREPER/Council
No. prev. doc.:	7375/10 ENFOPOL 59
Subject:	Proposal for a Council Resolution on a Model Agreement for setting up joint cooperation teams under Chapter 5 of Decision 2008/615/JHA

1. The Presidency's proposal for a Council Resolution on a Model Agreement for setting up joint cooperation teams under Chapter 5 of Decision 2008/615/JHA, as set out in doc. 7375/10 ENFOPOL 59, was discussed and agreed by the Police Cooperation Working Party at its meeting on 18 March 2010.
2. COREPER is invited to confirm this agreement on the text of the draft Council Resolution as set out in annex and to submit it to the Council for adoption.

**DRAFT COUNCIL RESOLUTION ON A MODEL AGREEMENT FOR SETTING UP
JOINT COOPERATION TEAMS WITHIN THE FRAMEWORK OF COUNCIL
DECISION 2008/615/JHA OF 23 JUNE 2008 ON THE STEPPING UP OF CROSS-BORDER
COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND
CROSS-BORDER CRIME**

THE COUNCIL OF THE EUROPEAN UNION,

HAVING REGARD to the Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA, and in particular Chapter V, Article 17(3),

BEARING in mind that:

- Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime¹, in addition to providing for an improvement in the exchange of information between the authorities responsible for crime prevention and prosecution, offers a framework in Chapter 5 for the development of other forms of cooperation, referred to as "joint operations", between the Member States' law enforcement authorities,
- the joint operations provided for in Decision 2008/615/JHA are carried out by establishing police patrols or joint cooperation teams composed of officers from the law enforcement agencies of two or more Member States,

¹ OJ L 210, 6.8.2008, p. 1.

- Council Decision 2008/616/JHA² of 23 June 2008 on the implementation of Decision 2008/615/JHA makes the development of these forms of cooperation conditional upon the conclusion of written or verbal arrangements between the competent authorities of the Member States wishing to undertake a joint operation,

CONSIDERING that a model agreement for implementing joint operations would facilitate the work of the Member States' authorities when they need to set up joint cooperation teams as provided for in Chapter 5 of Decision 2008/615/JHA,

TAKING INTO ACCOUNT that the model agreement should be sufficiently flexible to allow the competent authorities to adapt it to the specific circumstances in each situation,

ENCOURAGES the competent authorities of the Member States that wish to set up a Joint Cooperation Team in accordance with Chapter 5 of Decision 2008/615/JHA, to use, where appropriate, the model agreement set out in the Annex to this Resolution in order to agree upon the modalities for the joint cooperation team,

REQUESTS the Council General Secretariat to include this model agreement for setting up joint cooperation teams in the Manual on cross-border operations.

Done at Brussels, ... 20 ...

For the Council

The President

² OJ L 210, 6.8.2008, p. 12.

ANNEX**MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT COOPERATION
TEAM**

In accordance with Articles 17, 18, 19, 20, 21, 22, and 23 of Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (hereinafter referred to as Decision 2008/615/JHA), and Article 17 of Decision 2008/616/JHA, it is hereby agreed to establish a joint cooperation team in accordance with the following provisions:

1. Parties to the agreement, competent authorities of the Member States responsible

The following parties have concluded an agreement on the establishment of a joint cooperation team:

Name and contact details of the host Member State authority or Service	Member State
Name and contact details of the seconding Member State(s) authority or Service	Member State

Competent authority of the host Member State responsible for giving instructions to officers sent by the seconding Member State(s):

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Competent authority of the seconding Member State(s)

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2. Purpose

		Joint patrol	Disaster
		Other joint operation	Serious accident
		Mass gathering/ major event	Other
		Reinforcement at a law enforcement authority station	
Title and brief description of the cooperation undertaken			
Specific assistance to be provided by the seconding Member State(s)			

A general briefing on the development of the joint operation will be given to the seconding Member State(s)' officers in due time.

3. Place where the operation is to take place

Member State:
Region, town, area or locality:
Other information:

4. Period covered by the operation

Start date	End date

The end date may be deferred by mutual consent of the parties.

5. Officer(s) responsible

From the host Member State

Name	Rank	Function	Service to which officer belongs	Telephone/mail

From the seconding Member State(s)

Name	Rank	Function	Service to which officer belongs	Telephone/mail

6. Officers/specialists/advisers participating

The following persons shall be members of the joint cooperation team (host Member State)

Name	Rank	Function	Service to which officer belongs

The following persons shall be members of the joint cooperation team (seconding Member State(s))

Name	Rank	Function	Service to which officer belongs

If any of the persons listed above is unavailable, the officer(s) responsible (identified in paragraph 5) shall inform the host State of the replacement.

7. Executive powers of the officers seconded to the joint cooperation team (Article 17(2) of Council Decision 2008/615/JHA)

Executive powers shall be exercised only under the guidance of and, as a rule, in the presence of officers from the host Member State. The seconding Member State's officers shall be subject to the host Member State's national law. The host Member State shall assume responsibility for their actions.

If applicable: executive powers of the seconded officers

1. Executive powers conferred by the host Member State, in accordance with its national law, on officers seconded by other Member States and with the seconded MS' consent.
2. Executive powers which the host Member State allows the seconding Member State(s) officers to exercise in accordance with the seconding Member State(s) national law.

The host Member State shall provide the seconding officers with the same protection and assistance in the course of those officers duties as for their own officers.

8. Arms, ammunition, equipment, uniforms and vehicles of the seconding Member State's officers

Arms which may be used with the authorisation of the host Member State (model, type, series and number)

Ammunition which may be used with the permission of the host Member State

Equipment which may be used with the permission of the host Member State

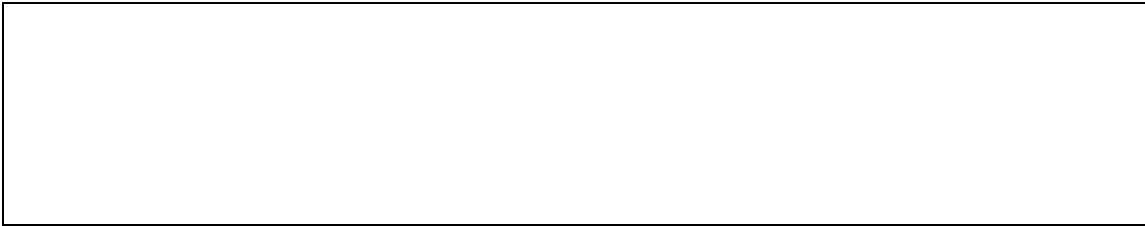
Specific cases in which the host Member State's officer in charge of the operation may give permission, in compliance with national law, for arms, ammunition and equipment to be used for purposes going beyond legitimate self-defence or the defence of others

Uniforms that may be worn by the seconding Member State(s) officers with the permission of the host Member State

Motor vehicles which may be used by the seconding Member State(s) officers with the permission of the host Member State (Police vehicle number)

Host Member State's rules on the use of arms, ammunition and equipment- Art. 19 (2) Council Decision 615/2008/JHA

9. Logistic modalities as regards transport, accommodation and security



10. Costs (Art. 34 of Council Decision 2008/615/JHA)

Each Member State shall bear the operational costs, unless different arrangements are agreed.

11. Civil liability (Art. 21 of Council Decision 2008/615/JHA)

1. Where officials of a Member State are operating in another Member State pursuant to Article 17, their Member State shall be liable for any damage caused by them during their operations, in accordance with the law of the Member State in whose territory they are operating.
2. The Member State in whose territory the damage referred to in paragraph 1 was caused shall make good such damage under the conditions applicable to damage caused by its own officials.
3. In the case provided for in paragraph 1, the Member State whose officials have caused damage to any person in the territory of another Member State shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.
4. Where officials of a Member State are operating in another Member State pursuant to Article 18, the latter Member State shall be liable in accordance with its national law for any damage caused by them during their operations.

5. Where the damage referred to in paragraph 4 results from gross negligence or wilful misconduct, the host Member State may approach the seconding Member State in order to have any sums it has paid to the victims or persons entitled on their behalf reimbursed by the latter.
6. Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 3, each Member State shall refrain, in the case provided for in paragraph 1, from requesting reimbursement of damages it has sustained from another Member State.

12. Criminal liability and employment relationship (Articles 22 and 23 of Council Decision 2008/615/JHA)

Officers operating within another Member State's territory under this Decision, shall be treated in the same way as officers of the host Member State with regard to any criminal offences that might be committed by, or against them, save as otherwise provided in another agreement which is binding on the Member States concerned.

Officers operating within another Member State's territory under this Decision shall remain subject to the employment law provisions applicable in their own Member State, particularly as regards disciplinary rules.

13. Other issues

Done at [place and signature], [date]

[Signature of the competent authorities]

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