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WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
Subject:	EU UK Trade and Cooperation Agreement - Proposal for questionnaires on automated DNA and FP data exchange with the United Kingdom

The EU UK Trade and Cooperation Agreement (TCA) refers in Part Three [LAW ENFORCEMENT AND JUDICIAL COOPERATION IN CRIMINAL MATTERS], Title II to automated exchange of DNA, Fingerprints and Vehicle Registration Data. Technical and procedural specifications are laid down in ANNEX 39, which forms an integral part of Title II of Part Three.

ARTICLE 23 of ANNEX 39 sets out that the Council shall take a decision as referred to in Article 540 [Ex ante evaluation] of the Agreement on the basis of an evaluation whether the UK has met the required conditions for automated data exchange. In accordance with Art. 23, Chapter 4 [EVALUATION PROCEDURE REFERRED TO IN ARTICLE 540], the decision is to be based on an overall evaluation report, summarising the results of (a) a relevant questionnaire, (b) an evaluation visit and (c) a pilot run.

By letter of 23 July 2021, the UK communicated, on the one hand, its readiness to be evaluated for DNA and dactyloscopic data exchange, and, on the other hand, to notify at a later stage the information required for VRD exchange.

Delegations find in attachment to this note the draft questionnaires on DNA data and dactyloscopic data exchange respectively. Each proposal comprises both a cover note and in ANNEX a list of specific technical questions to be submitted to and to be replied by the UK.

Delegations are invited to agree on the proposal and to determine the details of the evaluation procedure in the IXIM meeting of 7 September. Comments in writing might be submitted by 27 August 2021 to ixim@consilium.europa.eu.

ANNEX 39, CHAPTER 1 [Technical specifications related to the exchange of DNA-data]

Cover note

The EU UK Trade and Cooperation Agreement refers in Part Three [LAW ENFORCEMENT AND JUDICIAL COOPERATION IN CRIMINAL MATTERS], Title II to exchanges of DNA, Fingerprints and Vehicle Registration Data. For the purpose of implementing the procedures referred to in Articles 530 [*Automated searching of DNA profiles*] and 531 [*Automated comparison of DNA profiles*], 534 [*Automated searching of dactyloscopic data*] and 537 [*Automated searching of vehicle registration data*], technical and procedural specifications are laid down in ANNEX 39, which forms an integral part of Title II of Part Three.

ARTICLE 23 of ANNEX 39 sets out that the Council shall take a decision as referred to in Article 540 [*Ex ante evaluation*] of the Agreement on the basis of an evaluation whether the UK has met the required conditions for automated data exchange. In accordance with ARTICLE 23, CHAPTER 4 [EVALUATION PROCEDURE REFERRED TO IN ARTICLE 540], the decision is to be based on an overall evaluation report, summarising the results of (a) a relevant questionnaire, (b) an evaluation visit and (c) a pilot run.

The UK, as soon as it considers that it fulfils the prerequisites for sharing data in the relevant data category, shall answer the relevant questionnaire on **DNA data exchange** drawn up by the relevant Working Group of the Council of the European Union (the "Council Working Group"). When carrying out the evaluation procedure, the Council, through the relevant Council Working Group, will take into account the results of the evaluation procedures, carried out in the context of the adoption of Council Implementing Decisions (EU) 2019/968¹ and (EU) 2020/1188². The relevant Council Working Group will decide on the necessity of carrying out the pilot run referred to in Article 540(1) of the TCA, in Article 23(2) [Preparation of decisions as referred to in Article 540] and in Article 2 [Technical specifications] of Chapter 0 [GENERAL PROVISIONS] of ANNEX 39.

The document in annex to this note sets out a proposal for the questionnaire on the exchange of DNA data exchange pursuant to Articles 530 [*Automated searching of DNA profiles*] and 531 [*Automated comparison of DNA profiles*] of the TCA and corresponds *mutatis mutandis* to 6661/1/09 REV 1 ADD 2 REV 2.

¹ COUNCIL IMPLEMENTING DECISION (EU) 2019/968 of 6 June 2019 on the launch of automated data exchange with regard to DNA data in the United Kingdom, OJ L 156/8, 13.6.2019.

² COUNCIL IMPLEMENTING DECISION (EU) 2020/1188 of 6 August 2020 on the launch of automated data exchange with regard to dactyloscopic data in the United Kingdom, OJ L 265/1, 12.8.2020.

1. Organisational

- 1.1. Please provide the contact information for the designated national contact point (NCP) for incoming and outgoing requests (Prüm 1st step NCP)
- 1.2. Has a person (or a unit) in charge of the network communication for Prüm DNA application at the UK site already been appointed?
- 1.3. Has a person (or a unit) in charge of the software development for Prüm DNA application at the UK site already been appointed?
- 1.4. Does the UK use a central national contact point for the follow-up consultation procedure after hit notifications (Prüm 2nd step NCP) ? If so, please provide details.

2. Technical

2.1. General

- 2.1.1. Does the UK use the existing Prüm product components? If yes, please answer the questions 2.1.2. to 2.1.5.
- 2.1.2. Which of the following software component is applied by the UK? Please specify by choosing a), b), c), d):
 - a) Communication Center (DE-CC) for UNIX and Microsoft operation systems,
 - b) Match Engine (AT-ME) for Microsoft SQL DBMS,
 - c) Match Engine (DE-ME) for Oracle DBMS,
 - d) CODIS DNA Software with implemented Prüm communication and match engine tools (CODIS 7 or newer versions).
- 2.1.3. Please provide the following information on existing Prüm DNA operations:
 - are you satisfied with the used software components?
 - Is the Prüm DNA database software also used as a national DNA database or is it a specific database only used for international search and comparison?
 - If two separate DNA database systems exist, which technical processes are in place to ensure that all UK DNA profiles UK are available to connected MS for Prüm data search and comparison?

- Taking into account Council Implementing Decision (EU) 2019/968 on the launch of automated exchange of DNA data, and in particular Article 2 of that Decision which stipulates the availability of UK DNA profiles of suspected criminals for data exchange with the UK, do the technical solutions in place ensure that DNA data of both convicted and suspected criminals are available in the same way to the MS' law enforcement authorities as they are available to UK law enforcement authorities for law enforcement purposes?
- With which MS are you already operational regarding Prüm DNA data exchange at the time of replying to this questionnaire?
- Are you satisfied with the operative results of the existing Prüm cooperation with MS or are there any problems in this cooperation from your point of view? If so, please describe them in detail?
- Are you ready to provide annual statistics on DNA data exchange in line with the model set up by the relevant Council Working Party?
- Are you aiming to go live with more MS than currently operational for DNA data exchange, or do you see reasons to not extend such cooperation? If you see reasons, please could you describe them in detail?

2.1.4. Which kind of database is used:

- Oracle DBMS
- MS SQL Server
- other: ...

2.1.5. Which kind of application is used:

- Tomcat
- Oracle iAS
- other: ...

2.2. Network

2.2.1. Does a national access point to the TESTA NG exist in the UK ?

2.2.2. Have the premises where Prüm DNA application equipment will be installed already been connected to the national TESTA NG access point ?

Which kind of connection is deployed (direct access or via a local secure link) ?

2.3. System Availability and Processing Procedure

- 2.3.1. Can you maintain an availability of the Prüm DNA national system (DBMS, email and application servers, active network components and etc.) 24/7, with permanent technical system support, emergency power etc. to enable the swift elimination of technical problems at least during office hours ?
- 2.3.2. Does the UK commit itself to reply to the requesting party for single searches in Prüm 1st step processing within 15 minutes by the NCP ?
- 2.3.3. Please provide the volumes of DNA reference profiles (convicted persons) available to MS for automated searching and comparison in the UK database.
- 2.3.4. Please provide the volumes of DNA reference profiles (suspected persons)) available to MS for automated searching and comparison in the UK database.
- 2.3.5. Please provide the volumes of open DNA stain profiles with relevant DNA data quality) available to MS for automated searching and comparison in the UK database.
- 2.3.6. Please provide the volumes of other DNA profiles available (if provided for Prüm searches), e.g. DNA profiles from unidentified death bodies or missing persons.
- 2.3.7. Is the UK site capable of conducting a batch-oriented mass comparison with stains?
- 2.3.8. Does the UK site send in systematic manner individual search requests particularly with new loaded reference profiles to MS?
- 2.3.9. Does the UK site conduct an initial mass comparison and then send each new entry of DNA profiles (reference and stain) to EU Member States' sites? If not, does the UK site intend to conduct mass comparisons on a regular basis ?
- 2.3.10. Is your current IT environment configured in such a way that the UK can send matched profile(s) back to the requesting party in an automated procedure ?

2.4. Email Mechanism:

- 2.4.1. Is SMTP server available and in operation at the UK site ?
- 2.4.2. Is POP3 Server available and in operation at the UK site ?
- 2.4.3. Have email domains and sub domains as well as email-based application accounts for Prüm DNA productive operations already been established upon the agreed specification and in line with foreseen EC DG Digit Testa NG domain structure?
- 2.4.4. Have email domains and sub domains as well as email-based application accounts for Prüm DNA test operations already been established upon the agreed specification and in line with foreseen EC DG Digit Testa NG domain structure?

The topic list above does not mention every possible item.

The UK is free to comment on any other item it wishes, such as the implementation of the recommendations set out in the evaluation visit report prior to the adoption of Council Implementing Decision (EU) 2019/968, or its willingness to continue its cooperation regarding automated data exchange in accordance with the legal and technical update of the Prüm framework, currently under preparation within the Commission.

ANNEX 39, CHAPTER 2 [Technical specifications related to the exchange of dactyloscopic data (INTERFACE CONTROL DOCUMENT)]

Cover note

The EU UK Trade and Cooperation Agreement refers in Part Three [LAW ENFORCEMENT AND JUDICIAL COOPERATION IN CRIMINAL MATTERS], Title II to exchanges of DNA, Fingerprints and Vehicle Registration Data. For the purpose of implementing the procedures referred to in Articles 530 [*Automated searching of DNA profiles*] and 531 [*Automated comparison of DNA profiles*], 534 [*Automated searching of dactyloscopic data*] and 537 [*Automated searching of vehicle registration data*], technical and procedural specifications are laid down in ANNEX 39, which forms an integral part of Title II of Part Three.

ARTICLE 23 of ANNEX 39 sets out that the Council shall take a decision as referred to in Article 540 [*Ex ante evaluation*] of the Agreement on the basis of an evaluation whether the UK has met the required conditions for automated data exchange. In accordance with ARTICLE 23, CHAPTER 4 [EVALUATION PROCEDURE REFERRED TO IN ARTICLE 540], the decision is to be based on an overall evaluation report, summarising the results of (a) a relevant questionnaire, (b) an evaluation visit and (c) a pilot run.

To that end, the UK, as soon as it considers that it fulfils the prerequisites for sharing data in the relevant data category, shall answer the relevant questionnaire on **dactyloscopic data exchange** drawn up by the relevant Working Group of the Council of the European Union (the "Council Working Group"). When carrying out the evaluation procedure, the Council, through the relevant Council Working Group, will take into account the results of the evaluation procedures, carried out in the context of the adoption of Council Implementing Decisions (EU) 2019/9681³ and (EU) 2020/11882⁴. The relevant Council Working Group will decide on the necessity of carrying out the pilot run referred to in Article 540(1) of the TCA, in Article 23(2) [Preparation of decisions as referred to in Article 540] and in Article 2 [Technical specifications] of Chapter 0 [GENERAL PROVISIONS] of ANNEX 39.

The document in annex to this note sets out a proposal for the questionnaire on the exchange of dactyloscopic data pursuant to Article 534 [*Automated searching of dactyloscopic data*] of the TCA, and corresponds *mutatis mutandis* to 6661/09 ADD 3 REV 1.

³ COUNCIL IMPLEMENTING DECISION (EU) 2019/968 of 6 June 2019 on the launch of automated data exchange with regard to DNA data in the United Kingdom, OJ L 156/8, 13.6.2019.

⁴ COUNCIL IMPLEMENTING DECISION (EU) 2020/1188 of 6 August 2020 on the launch of automated data exchange with regard to dactyloscopic data in the United Kingdom, OJ L 265/1, 12.8.2020.

1. Organisational

- 1.1. Please provide the details of the designated UK national contact point for incoming requests.
- 1.2. Does the UK intend to use a central national contact point for the follow-up consultation procedure after hit notifications (2nd step consultation procedure) ?

2. Technical

- 2.1. Can the national contact point connect onto the TESTA-network?
- 2.2. Has the UK AFIS been connected to a sMIME v.3 compliant mail server?
- 2.3. Does your mail server follow the processing rules defined in ANNEX 39, Chapter 1, point 5.4 ?
- 2.4. Is the configuration of the UK mail server compliant to ANNEX 39, Chapter 1, point 5.7.4 ?
- 2.5. Is the UK AFIS capable to process requests in a fully automated way ?
- 2.6. Is the UK AFIS compliant to the data format specified in the “Interface Control Document (ICD)” defined in Chapter 2 of the ANNEX 39 / TCA.
- 2.7. Is the UK AFIS capable to process within 24 hours all incoming requests defined and agreed in the table with maximum daily searches ?
- 2.8. Is the UK AFIS able to handle requests with high priority?
- 2.9. Is the UK AFIS able to handle requests linked to fingerprint searches (transaction types CPS, PMS, SRE ERR)?
- 2.10. Is the UK AFIS able to handle requests linked to fingerprint latent searches (transaction types MPS, MMS, SRE ERR)?
- 2.11. Is the UK AFIS able to handle requests linked to palmprint searches (transaction types PMS, SRE, ERR)?

- 2.12. Is the UK AFIS able to handle requests linked to palmprint latent searches (transaction types MPS, MMS, SRE, ERR)?
- 2.13. Does the UK national technical workflow ensure that the UK will not exceed the maximum number of requests defined and agreed in the table with maximum daily searches ?
- 2.14. Taking into account Council Implementing Decision (EU) 2020/1188 on the launch of automated exchange of dactyloscopic, and in particular the information set out in recital 10⁵, do the technical solutions in place ensure that dactyloscopic data of both convicted and suspected criminals are available in the same way to the MS' law enforcement authorities as they are available to UK law enforcement authorities for law enforcement purposes?
- Please provide the volumes of Fingerprint / Palmprint datasets (convicted persons) available to MS for automated searching in the UK database.
 - Please provide the volumes of Fingerprint / Palmprint datasets (suspected persons) available to MS for automated searching in the UK database.
 - If the data volumes for the above mentioned data categories differ from the volumes available to national law enforcement authorities, please explain the differences.
- 2.15. Please provide the volumes of open dactyloscopic stain datasets (Latent fingerprints / latent palmprints) available to MS for automated searching in the UK database.
- 2.16. Please provide the volumes of available other dactyloscopic datasets (if such will be provided and used for Prüm searches), e.g. dactyloscopic data from unidentified death bodies or missing persons.
- 2.17. With which MS are you already operational regarding Prüm fingerprint data exchange at the time of replying to this questionnaire?
- 2.18. Are you ready to provide annual statistics on dactyloscopic data exchange in line with the model set up by the relevant Council Working Party?
- 2.19. Are there any problems in this cooperation from your point of view? If so, could you describe them in more detail?

⁵ 'Following the information provided by the United Kingdom in accordance with Council Implementing Decision (EU) 2019/968, the United Kingdom has made available the DNA data of suspects in conformity with Decision 2008/615/JHA. In that regard, all DNA data available to law enforcement authorities of the United Kingdom form part of the shareable Prüm dataset that has been made available to law enforcement authorities of Member States, in full respect of the principle of availability. The principle of availability is also respected with regard to dactyloscopic data. No dactyloscopic data are excluded from biometric data exchanges with the United Kingdom.'

2.20. Are you aiming to go live with other operational MS, or do you see reasons to withhold additional cooperation? If yes, could you describe them in more detail?

The topic list above does not mention every possible item.

The UK is free to comment on any other item it wishes, such as the implementation the recommendations set out in the evaluation visit report prior to the adoption of Council Implementing Decision (EU) 2020/1188, or its willingness to extend automated data exchange with MS in accordance with the expected legal and technical update of the Prüm framework, currently under preparation within the Commission.
