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NOTE

from : EU Counter-Terrorism Coordinator
to : COREPER/Council

Subject : Provisional findings of the two "peer evaluation" mechanisms affecting the Union fight against terrorism.

The Declaration on combating terrorism (doc 7906/04) calls on the Council to examine an interim report on the outcome of the process of peer evaluation of national arrangements in the fight of terrorism by September 2004. At the meeting of the Justice and Home Affairs Council on 29 April 2004, Commissioner Vitorino suggested that an interim report on the third round of evaluations on organized crime, which concerns intelligence and the sharing of intelligence among law enforcement (also with Europol), could also be made.

The attached provisional report of the Counter-Terrorism Co-ordinator seeks to respond to those requests, on the understanding that this is a report which is of a provisional nature¹ and that it is submitted with a view to advancing the issue further.

The main provisional findings of the reports and evaluation visits as well as some tentative points for further consideration could be summarised as follows:

¹ As regards terrorism, 15 Member States have been visited and as regards intelligence sharing among law enforcement, 8 Member States have been visited to date. The reports are at various stages of preparation.

1. A number of Member States have taken several measures in recent years to improve coordination internally between various services involved in the fight against terrorism and organised crime, be they police, intelligence, customs, frontier guards, FIUs and other bodies. However, reforms are sometimes slow and not yet implemented to the full. Some Member States seem not to have begun a process of reform yet in certain areas.
2. Due to different historical, organisational or legal traditions and backgrounds, each Member State will structure its own system in the way which best accommodates those traditions - there is no question about the EU imposing a "one size fits all" approach on the Member States.
3. What the EU can do in this field is to make recommendations, encourage the sharing of practices and stimulate Member States to cooperate efficiently internally, among them and with European bodies such as Europol and Eurojust. Some legislative measures at Union level may also facilitate this approach. The European Council declaration on combating terrorism mentions a number of measures already undertaken or that are in the pipeline.
4. It could be explored in the future assessments on the reports whether internal coordination in the Member States could not be improved in the field of terrorism and related organised crime. This is also relevant as regards cooperation between intelligence, police, customs and, sometimes, frontier guards. Some Member States, for example, have set up a co-ordinating body/mechanism in the JHA area when there is more than one law enforcement body dealing with terrorism.
5. Another issue to explore would be the development of debriefing meetings for purposes of sharing information and analysis of study cases including the analysis of the role of the relevant co-ordinating structure. This could apply to terrorist acts and investigations at national level and more importantly when a terrorist act is related to "international jihad" (how did the co-ordinating structure/mechanism work in the field of exchange of information before the terrorist act, at the time of the terrorist act and after the event?). Debriefings could be addressed to all bodies included in the co-ordination structures/mechanisms. Debriefings should also include judicial authorities. Where debriefings on study cases are carried out between several Member States' competent authorities at an international level, Eurojust and Europol could also be involved in a more systematic way.

6. The problem of exploring intelligence at various levels should be addressed in this context. How can intelligence with security services, criminal intelligence, "police intelligence", "customs intelligence" and information collected in the context of judicial investigations be best used so that gaps do not exist? How can intelligence be exploited so that it can be used, if necessary by courts in legal proceedings?

7. It seems that a more integrated approach is also desirable in the sharing of information as regards data banks and registers in the Member States. In some, there is no system for "flagging" of information which is found in one databank, for instance a police register, and which is inserted into another data bank, for instance a customs register. There is undoubtedly a "compartementalisation" of information in the various systems. From this perspective, it could also be studied whether security services could also have a permanent access to law enforcement databases and to other relevant administrative data bases, such as border management ones. The Commission will contribute to this debate through its upcoming Communication on data protection and law enforcement.

8. A point that merits further consideration is whether it would not be useful to develop at national level common comprehensive strategic terrorism threat assessments covering potential perpetrators, capabilities and objectives¹ in order to avoid numerous sectional threat assessments.

9. As regards external exchange of information, it is clear that the number and activity of exchanges has grown exponentially over the past years, as a result of the growing internationalisation of organised crime and terrorism, in particular in the aftermath of 9/11 and 3/11. National experiences should be analyzed further with a view to identifying best practices.

10. Europol should take strong measures immediately to have its EIS system up and running.

¹ Cf. the SGDN role and the implementation of the Vigipirate plan in France

11. As regards Member States' provision of information to Europol, the Commission has recently proposed measures (doc. 8200/04). Europol's AWF should be better used and be able to be set up more rapidly. The use of Europol Liaison Officers is excellent but the information should also be passed on to the body itself. Use of Eurojust as a central body capable of coordinating prosecution of cases of terrorism could also be improved.

12. In order to increase at EU level a common approach to terrorism with a special focus on terrorist acts in the sphere of influence of international jihad, it would be relevant to disseminate within the EU analysis and study cases including terrorist acts in third countries. In the field of training, CEPOL could play a relevant role in developing appropriate courses.

The Council is invited to take note of these provisional findings and to mandate the Counter-Terrorism Coordinator to steer the two mechanisms in conjunction with the Presidency, with a view to making concrete proposals and recommendations on the basis of existing information and discussions on this report to the Council in December 2004.

I. THE EVALUATION RELATING TO TERRORISM

General overview.

1. Preliminary comments.

1.1. This intermediate report is not based on national reports agreed by MS¹. It does not refer to all aspects of the fight against terrorism and only focus on main points of reference. For the specific rules relating to the evaluation, see OJ L 349/1 of 24 December 2002.

1.2. The specific topic of the evaluation was: "To assess the exchange of information in all domains relating to terrorist activities between law enforcement and intelligence services and all other bodies dealing with various aspects of terrorism, including the co-ordination among those services and between these services and their counterparts in the other Member States on how best to exploit this information. The evaluation should mainly focus on information and co-ordination concerning Islamic terrorists activities". The aim of the evaluation was to work out (i) how the counter terrorism machinery is working and (ii) to identify security gaps and best practices. It was not the task of the experts to "investigate or prosecute" national antiterrorist arrangements independently of the constitutional organisation of public authorities and of its own experience in fighting terrorism: combating domestic terrorism led these countries to adopt appropriate tools and legal instruments based on their own policy and legal provisions at national level. This also applies to prosecution by judicial authorities (counter terrorism prosecutors in France, an independent body in Spain, the Crown Prosecution Service in the UK...) in addition to various current situations as regards the legal framework dedicated or not to terrorist acts.

1.3. At law enforcement and security level, the Member States use the same means but the political, administrative and judicial framework varies from one country to another.

¹ At the moment, one national report is agreed. Cf the Council decision of 28/29 November 2001.

1.4. At national level, all ministries contribute to the fight against terrorism in their respective fields of competence. However the Ministry of Interior generally has the lead. In other cases, the Ministry of Justice has the lead when the criminal police is part of the ministry.¹ At the level of the investigation, most law enforcement bodies act under the supervision, direction and control of judicial authorities. In some cases, the Member States dedicate specialised police units dealing only with terrorism² or dealing with both terrorism and organised crime³. In other cases, the criminal police is responsible for investigating terrorist acts and groups among other offences. In addition, some law enforcement bodies have special units dealing with intelligence⁴ whereas others have no intelligence competence⁵. Additionally in terms of co-ordination, the Member States having national law enforcement agencies must be distinguished from the Member States having only regional police forces⁶ and from those with both national law enforcement bodies and regional police forces⁷. Federal states are an additional and sophisticated/particular category⁸. This point influences the respective importance of the involvement of various bodies in connection with the role of security services: the security service are in general more prevalent when there are only regional police forces and no national law enforcement⁹.

1.5. Security services and intelligence agencies¹⁰ are involved in fighting terrorism. In some Member States security services are part of the national police¹¹. Some have law enforcement competence¹² whereas other Member States' security services generally have no police powers. Another dividing line between security services is the use of special investigative techniques available in particular in terms of interception of communications or eavesdropping. In some Member States, there is no specific legal framework relating to certain special investigative techniques¹³.

¹ Judicial Police in Portugal, An Garda Síochána in Ireland, National Police in Denmark and in Sweden,

² DNAT within the Judicial Police in France, National Police and Guardia Civil in Spain...

³ The ROS within the Carabinieri in Italy, the DCCB within the Judicial Police in Portugal...

⁴ National Police and Guardia Civil in Spain

⁵ DCCB in Portugal

⁶ The United Kingdom (until recently), the Netherlands.

⁷ Spain.

⁸ Austria, Germany

⁹ The United Kingdom, the Netherlands.

¹⁰ Intelligence agencies as such were part of the evaluation in some cases (Italy, Portugal, Germany...)

¹¹ PET in Denmark, SUPO in Finland, An Garda Síochána in Ireland, SÄPO in Sweden

¹² the DST in France, SÄPO in Sweden

¹³ the SIS in Portugal, the SISDe in Italy, the BVT in Austria, the Security of State in Belgium, the SÄPO in Sweden.

This has consequences in the field of information gathering and the capacity to collect information is limited as well the possibility to prevent and anticipate a terrorist act.

1.6. Apart from some Member States¹, most Member States have only one security service that sometimes is dealing with both internal and external security². Security services are generally responsible to the ministry of interior³ and have no direct and formal relation with judicial authorities⁴ except in some countries⁵.

1.7. In addition, other law enforcement bodies are more or less involved in fighting terrorism in their fields of activity in connection with their legal competence and in particular when they have police powers: customs⁶, financial units⁷, maritime police units⁸, Aliens and Borders departments⁹.

1.8. Both at law enforcement and intelligence level, international co-operation is a very useful tool which is more or less developed and based on bilateral and multilateral relations¹⁰. Bilateral co-operation is generally considered as the most workable instrument and some Member States have very strong bilateral partnerships¹¹. Other kinds of international co-operation also exist on an ad hoc basis such as the G5 in addition to geographical ad hoc working groups/political fora. Some Member States also decided to set up a multidisciplinary department within the Ministry of Foreign Affairs and nominated an Ambassador at large¹². From an intelligence perspective, Member States security services are also parts of the Bern Club (and they are now part of the CTG)¹³. Security services and intelligence agencies in Member States are fully aware of the importance of international co-operation as an appropriate instrument to fight against terrorism internally. Security services and intelligence agencies co-operate on internal terrorist related issues in the framework of the CTG.

¹ France, the United Kingdom, Germany, Sweden.

² The NIC in Spain, the NIS in Greece...

³ exceptions see footnote No 9

⁴ Intelligence as such is not used as evidence in Court, except in Austria, Ireland, Germany.

⁵ The Dutch AIVD and the National Counter Terrorism Prosecutor, An Garda Síochána in Ireland, BVT in Austria, PET in Denmark, BfV in Germany, SUPO in Finland, SÄPO in Sweden.

⁶ Some customs departments have law enforcement competence (Belgium, Finland, France, Germany).

⁷ Financial Police in Italy.

⁸ Greece, Portugal.

⁹ France, Portugal.

¹⁰ Both law enforcement bodies and intelligence agencies have counterparts abroad.

¹¹ France, the United Kingdom, Spain.

¹² Spain, the Netherlands.

¹³ Apart from some cases, the evaluation team did not meet with external security agencies. They generally deal with terrorism related intelligence. Some of them are included in the EU SitCen which has no internal security component at the moment.

1.9. Relations with Europol is a particular point and exchange of information is still to be much improved. In the counter terrorism area and in addition to the legal obstacles that exist in providing Europol with judicial information, there are two main difficulties: the first is that Europol is considered as a law enforcement body by security services, and thus not a partner for them, and, secondly, law enforcement bodies do not perceive the added value of Europol. However co-operation is being improved, but the process is slow.

2. Co-ordination/co-ordinating bodies and mechanisms.

2.1. The Member States having various dedicated law enforcement bodies and/or intelligence agencies/security services should be distinguished from those not having them . In contrast to the second group in which there is no particular co-ordinating mechanism as such¹ (co-ordination is made on ad hoc basis) co-operation and coordination² is organised in the first group on the basis of (permanent) co-ordinating mechanisms/structures. In this area, a wide range of situations exists at national level³ with a general view to streamlining information sharing among law enforcement agencies⁴ and intelligence/security services: standing body in France (UCLAT), permanent structure in the UK (various mechanisms and JTAC in particular), regular meetings in Italy and in Germany (Information board), governmental co-ordination (State Secretary for Security in Spain). This kind of co-ordination generally takes place within the Ministry of interior or in the Home Affairs area. However, as far as co-ordination is concerned and in addition to the co-ordination of judicial investigations, Prosecutors make functional co-ordination in some countries (Greece) including as regards relations with the security services (Belgium, the Netherlands). Generally judicial authorities are not part of these co-ordinating mechanisms.

¹ Greece and the Netherlands.

² In some countries co-operation is enshrined in Law (Spain, Portugal).

³ In addition to co-ordination at local level (Spain, Italy...). Co-ordination at local level was not assessed by experts due to the lack of time.

⁴ Generally MS set up co-ordinating bodies as a result of terrorist acts in order to improve fighting terrorism in particular when several law enforcement bodies and security services are involved. This apply to the policy in the law enforcement area: in addition to counter espionage, the French DST focus on Islamic extremist terrorism since the 80's and the MI 5 is seriously reorienting its traditional activities in order to take into account new threats and in particular Islamic extremist activities.

2.2. After 11 September 2001, some countries created co-ordinating bodies (UCAT in Portugal within the Ministry of Justice, technical group within the Ministry of Interior in Italy, JTAG in the UK). However, some countries did not set up co-ordinating bodies¹.

2.3. In practice, three types of mechanisms have to be distinguished²: (i) mechanisms dealing with management of terrorist threats in terms of safety and public order measures³, (ii) mechanisms dealing with intelligence co-ordination⁴, in particular when there is more than one security/intelligence service, (iii) co-ordinating bodies aiming at ensuring/reinforcing exchanges of information including operational information and involving both law enforcement bodies and security/intelligence services⁵. All these mechanisms have separate objectives but related functions. The experts paid attention to all of them with a special focus on the second and third mechanisms. There is no common standard/practice and co-ordination takes place at various levels and methods. In some countries, the main law enforcement bodies and intelligence agencies have permanent seats in co-ordinating bodies/mechanisms (France, the UK, Germany) whereas in some others co-ordination applies only to law enforcement bodies (Spain) or to some of them only (Portugal).

2.4 In countries with experience in the fight against terrorism, co-ordination of law enforcement bodies and intelligence agencies/security services including relevant bodies is part of the counter terrorism machinery in order to make this machinery as a whole more responsive. The aim is also to cover most of the aspects/dimensions of terrorism.

¹ Greece.

² This distinction does not refer to judicial and/or functional co-ordination by Prosecutors

³ Government Coordination and Crisis Centre in Belgium, Security Co-ordination Office in Portugal.

⁴ The SGDN in France, the JIC in the UK, the SIRP in Portugal, CESIS in Italy...

⁵ UCLAT in France, Counter terrorism Joint Group in Belgium (this co-ordination body is under the authority of both Minister of Interior and Minister of Justice)

3. Co-ordination and added value.

3.1. Co-ordination of law enforcement bodies and intelligence agencies/security services is a key element in fighting terrorism due to the crucial importance of intelligence gathering and sharing in order to prevent and anticipate terrorist acts, to produce threat assessment and risk analysis¹. This obviously applies to exchange of criminal information and to current investigations. In order to have a global view and to take into account the various aspects of the fight against terrorism, this imposes to overcome “cultural differences/professional cultures” between law enforcement bodies, between law enforcement bodies and intelligence agencies/security services (and other relevant bodies). This also makes it necessary to go beyond the classical distinction between internal security and external security (and/or security and defence aspects) in particular in terms of Islamic Extremist terrorism² (international jihad). In particular when the security/intelligence services are included in co-ordination, the expected added value of a co-ordinating body/mechanism is as follows: common experiences of terrorism and counter terrorism activities as a common denominator, rationalisation of counter terrorism activities when experiences complement each other, development of mutual trust and transfer of experiences, exchange of best practices. Added value also means an increased appropriate responsiveness of the counter terrorism machinery as a whole at both preventive and investigative levels. This added value is extended when co-ordination applies to other relevant bodies including those involved in fighting the financing of terrorism. Another valuable outcome of co-ordination is the awareness of terrorism in all law enforcement bodies and intelligence agencies and subsequently the involvement of all of them in the field of intelligence/information gathering in order to maximise the capacity to collect more and more pieces of intelligence.

¹ In terms of protection of civil population, the French Vigipirate plan perfectly illustrates the relevance to set up security/safety and public order measures on the basis of a common threat assessment/risk analysis involving all law enforcement bodies and intelligence agencies including military intelligence and exchange of views with relevant interlocutors abroad..

² e.g. to deport an imam is part of fighting terrorism when he calls to jihad (apology, incitement to jihda) and is being answered, when he raises funds to support direct/indirect terrorist activities or terrorism related activities.

3.2. However, the added value also depends on various factors: the design and scope of the co-ordinating body¹, the definition of its role concerning the respective roles of law enforcement bodies and intelligence agencies. From this perspective a co-ordinating body cannot act as a steering committee but must act as a hub including permanent analysis of current situations at both intelligence and law enforcement level.

II. THE EVALUATION RELATING TO ORGANIZED CRIME

1. These reports are prepared in accordance with Article 8(3) of the Joint Action of 5 December 1997² which established a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime. The evaluation concerns the supply of information and intelligence to Europol and the exchange of information and intelligence between Member States³. The primary purpose of this third round of evaluations is to evaluate the application and implementation at national level of instruments dealing with law enforcement, of the resulting legislation and practices at national level and of international cooperation. In particular, the evaluation was to assess cooperation and coordination between different law-enforcement structures and operational practices with them. Overall, the main focus of the evaluation was to be the practical day-to-day cooperation between different units at both national and international level. Fight against terrorism was not part of this evaluation.

2. This document reflects the provisional conclusions and recommendations contained in the first five reports concerning Sweden, Portugal, Finland, Germany (report not yet adopted) and Belgium (report not yet adopted).

¹ The creation of a co-ordinating body is particularly valuable when there are law enforcement bodies with similar competence/organisation or when they both are powerful. Having agencies with overlapping fields of activities is not a bad thing as such, as long as they co-operate and are co-ordinated.

² OJ L 344/7, 15.12.97.

³ 8159/02 CRIMORG 21 EUROPOL 23.

3. Cross-border organised crime is still one of the major challenges endangering the creation of an area of freedom, security and justice. Countering this threat requires swift and comprehensive action from all law enforcement agencies throughout the European Union and that fundamentally depends on the unhampered and coordinated exchange of intelligence and information between the Member States.

4. One of the reasons for the establishment of a European Police Office (Europol) is to improve the effectiveness and cooperation of the competent authorities in the Member States¹ in the areas of crime for which Europol has received a mandate. The Europol Convention provisions governing the exchange of information and intelligence provide the framework within which an exchange via the Europol National Units (ENU) can be facilitated, and for an information flow into Europol to enable it to fulfil its analytical role by feeding its Analytical Work Files (AWF) and Information System.

2. GENERAL CONCLUSIONS

2.1 GENERAL COMMENTS AND STRUCTURES

2.1.1. In general terms, the experts were able to note that in all the countries evaluated very great care had been taken by all the public authorities to acquire the means for exchanging information at both national and international level. However, this summary report, putting forward as it does a uniform set of comments, should not obscure the fact that the countries examined have very different institutional histories, varying periods of affiliation to the EU and highly contrasting systems of administrative organisation. For example, the role and powers of the police in Sweden are in no way comparable with those which exist in Portugal. Yet, despite these legislative differences, awareness of the need of forever greater cooperation between the various agencies responsible for combating international crime is now not only a national but also a Community priority. All the Member States realise that a lack of international cooperation or the absence of a common policy in this area will have consequences in the medium or longer term for every Member State, in terms of both controlling and anticipating the phenomena in question.

¹ Cf. Art. 2(1) of the Europol Convention

Finland, for example, aware that the accession of the new Baltic States could lead to the type of criminal activity peculiar to that region being exported, has established a very active system of cooperation between the customs, frontier guards and police forces with the aim of coordinating measures to combat criminal activity both inside and outside the country more effectively. Plans to redeploy liaison officers in this part of Europe are also under consideration by the Finnish authorities.

2.1.2. It should also be noted that some of the countries evaluated have had a tradition of decentralised power or of federalism (Belgium and Germany), which has often made effective internal cooperation difficult because of the degree of autonomy they enjoy in exercising the various powers. On the other hand, although those countries which are more centralised politically and administratively tend to concentrate information more effectively, they do not always share that information internally as well as they might.

2.1.3. As far as EUROPOL is concerned, the Member States are unanimous in praising the benefits of its existence but appear to have quite contrasting views as to what form cooperation with the European Police Office should take. While some countries (Germany) would like to give greater operational powers to the European body responsible for police cooperation, others (for instance, Belgium or Portugal) would rather see EUROPOL as a preferred channel for exchange of information. There is however full agreement when it comes to condemning, and bemoaning, the lack of an automated EUROPOL file ¹.

2.1.4. Finally, it is worth noting that the increasing number of cooperation systems and their respective channels have never really been examined in detail by the Council Working Parties most concerned. The experts have shown their awareness of this situation when commenting, as in most of the reports drawn up, that the services and/or platforms responsible for international cooperation have a genuine tendency to use the various channels without any predefined strategy or policy. This lack of forethought, combined with an ever-increasing daily influx of data, has very often resulted in duplication of effort which is undoubtedly prejudicial to the smooth running of services and their efficiency in terms of international cooperation.

¹ The EIS project, whose establishment is awaited by all Member States.

2.1.5. Lastly, it must be recognised that no Member State has established any means of measuring the effectiveness of the existing networks, even less their performance in terms not only of cost/efficiency but also of streamlining resources. On the other hand, each of the Member States has taken care to establish a platform for international cooperation in order both to facilitate and control the internal use of international data and assist other Member States with their requests for international cooperation.

2.2. INTERNAL ORGANISATION OF THE EXCHANGE OF INFORMATION

2.2.1. While all the countries evaluated have highly operational and professional organisations, there are a number of difficulties with regard to the internal coordination between departments. These difficulties are often the result of the administrative background, but also of the policies carried out in terms of priorities, or even the thinking behind the anti-crime policies which each of the countries concerned may have conducted in this area.

2.2.2. Virtually all the countries evaluated now have a central police file containing mostly crime information but also intelligence data. Although all police forces at both local and regional level are obliged to supply the existing central files with data, any access to such data by services other than the police in the strict sense of the word poses a much greater problem. For instance, in Portugal the law gives the Criminal Police full investigative powers, while the planned incorporation of the Integrated Criminal Intelligence Service (ICIS) makes no provision for customs services to take part unless the areas covered are liable to involve crime prevention or criminal investigations. For different reasons there is a similar situation in Belgium, where the customs have developed their own databases with investigation files quite independently of the other police services. But as in Sweden, for instance, the customs have no more direct access to police databases than do the border patrol services.

On the other hand, other Member States such as Germany or Finland have developed closer links between the police and customs services, for example, through access to joint computer indices (INPOL in Germany) or the supply of data to a partly joint national file (RIKI and EPRI in Finland). It should also be pointed out that the seriousness of this problem varies according to the legislative powers granted to the customs service in each of the Member States. The powers of the Belgian customs bear no relation to those granted to their German counterparts, whose judicial powers are much more extensive.

2.2.3. However, whether it occurs between traditional police services or between police and customs or the border police responsible, for instance, for immigration, what really matters is that information is shared. By way of example, it may be interesting to note that the Kingdom of Belgium, when developing its new concept of integrated policing, has gone as far as imposing an obligation on police officers, subject to the risk of criminal proceedings, to pass on any information they have to the local information units (Law on integrated policing of 7 December 1998, Article 44/11). In fact, the main difficulties in exchanging information stem chiefly from the police services themselves. For instance, some countries such as Belgium are trying to improve the internal exchange of information by establishing a protocol which will in future enable general administrative departments in the State security service to exchange information with the federal police.

2.2.4. When, as is often the case, computer data have not been or cannot be exchanged directly between different services, most of the countries evaluated have appointed internal liaison officers (police officers working with the customs authorities, or vice versa), who have direct access to the central databases. Such a system at least has the advantage of allowing cooperation at a practical level, even though more needs to be done. This system of liaison officers exists for example in Finland at the National Bureau of Investigation (NBI), and in Germany, notably at the Federal Criminal Police Office (BKA). But even with a system of cooperation such as this it must be recognised that officials in the different ministries never have direct access to the information held by one or other of the administrations concerned.

2.2.5. It must however be recognised that all of these difficulties are partly offset by the strategic organisation defined by each of the countries at ministerial level. However the organisation is set up and whatever the powers granted to various people, all the Member States draw up a national strategy, usually at ministerial level, to ensure that any government measures taken in this field are consistent.

2.2.6. In Sweden, although there is no institutional agreement at ministerial level to tackle problems of this kind, there are informal contacts via the reform plan, while the authorities have placed on the agenda, for instance, enhanced cooperation and coordination between the customs and the police. In Finland, interministerial cooperation is even more developed, since target meetings are held twice a year between the various services at local, regional and national level. These meetings, which are organised by the police, are also attended by frontier guards and customs officials.

2.2.7. In Belgium and Portugal efforts are being made to ensure that the various administrations work more closely together. In Belgium, in the department for combating financial crime, customs officials cooperate directly in investigations, while in Portugal information is exchanged more closely following the setting up of the FIU via the permanent liaison group (Decree No 93/2003 of 30 April 2003). This trend towards interministerial cooperation is in fact becoming more widespread with regard to FIUs. Finally, in Germany, ministerial meetings are held at the Interior Ministry between the Federal Minister for the Interior and those from the Länder, with the aim of strengthening strategic and operational cooperation. However, it must be said that the various police departments are particularly compartmentalised within the Federal Criminal Police Office (BKA).

2.3. EXTERNAL EXCHANGE OF INFORMATION

2.3.1. In each of the Member States visited the experts were able to observe and note the growing development of activities related to the international exchange of information. This phenomenon may be attributable to the requests made by the States themselves or, more simply, in the case of those States less concerned than others by the amount of criminal activity, to the requests made by their partners on account of the increasing spread of international criminal activities.

2.3.2. The main development in organisational terms has been the setting up by all the States evaluated of a central platform with all the necessary facilities for receiving and sending messages from and to other Member States. This has come about following the implementation of Recommendation 1 of the Action Plan drawn up by the High-Level Working Group on Crime in 1997. However, it should be noted that this has not been implemented in exactly the same way in each country. For instance, Finland has set up a highly integrated system which not only combines all the cooperation channels but also allows a high degree of participation by officials from the various ministries concerned in the fight against international crime. Other States, however, see this type of platform in more strictly policing terms either by physically separating offices according to the particular communication channel (Portugal) or by compartmentalising cooperation, for instance between the customs and the police (Belgium)¹. However, the characteristic shared by all the countries evaluated is a greater or lesser degree of compartmentalisation in the exchange of data file contents between the various ministerial departments concerned. Many of the Member States examined lessen this handicap by having liaison officers from other ministerial departments (customs, immigration service, and frontier guards) on these joint platforms, so as to allow police officers on the platform to have indirect access to the respective databases simply on request.

2.3.3. The second main observation is the almost total lack of a clearly defined policy on the use of the various information exchange channels. In most cases, the choice of channel used will depend on working habits or more simply on where the message comes from in the case of incoming information. Similarly, officials working on these platforms send messages to the outside simply by using the information channel originally selected by the issuing department.

¹ The one exception in this country's case being the fight against drugs trafficking.

2.3.4. The way in which information exchange channels are used also depends on the division of tasks between these common platforms responsible for international aspects and the liaison officers in post abroad. In fact, there seems to be a tendency to use bilateral exchange more readily when the countries concerned have a large number of liaison officers in post abroad. It seems to be a fairly constant feature that direct contacts with liaison officers take place in particular in the context of dealing with delicate cases or cases requiring special confidentiality. This situation does pose some difficulties, for example when we know that in Germany the criminal investigation departments of the Länder (LKA) can have direct contacts with liaison officers in post abroad. Finland, meanwhile, feels that the proliferation of channels for information exchange and the creation of common platforms should lead to internal discussion to try to rationalise all working methods so as to optimise the use of existing tools.

2.3.5. These initial evaluations also revealed the clear dichotomy between police and customs services. Apart from the restriction on sharing information between different departments, which has already been mentioned above, it must be noted that the customs services tend to be more willing to exchange information in a multilateral context in the framework of the existing international agreements on the subject (in particular, the Naples Conventions). While cooperation is sometimes good, as, for example, in the fight against drugs, we have to agree that very close attention should be given to ensuring better shared use of information held by the police and customs services.

2.3.6. Another dominant feature continues to be the predominance in all categories of the use of the INTERPOL channel as compared with the EUROPOL channel. The reasons for this situation are many. Among these, we could cite in INTERPOL's favour wider geographical cover, speed of response and the use of documents produced by INTERPOL in legal proceedings¹. In all of the five countries visited INTERPOL is more action-oriented than EUROPOL and that in itself would be sufficient explanation. However, we note that in none of the Member States looked at has any discussion been initiated on the respective roles of the two institutions, or even on possible ways in which they could complement each other.

¹ ??? (article 15.5).

2.4 EUROPOL

2.4.1. Throughout the five visits to each of the Member States the evaluation team was able to measure how important EUROPOL's role had become, at least in the administrative organisation chain set up to manage all international exchanges and in particular intra-European exchange. The second comment, which is partly a result of the preceding one, is that there is a real increase in cooperation between the various agencies responsible for fighting organised crime.

2.4.2. However, an initial assessment may be made of cooperation between the Member States via the EUROPOL channel. In the first place, the nature of the links between EUROPOL and the Member States is confused for at least two reasons. The first is to do with the absence of a suitable yardstick to distinguish what is the result of cooperation via liaison officers in post in EUROPOL and what is the result of cooperation between the Member States and EUROPOL itself. While the evaluation revealed a sharp increase in exchanges via liaison officers, the expert teams were unable to distinguish cooperation in which EUROPOL was directly involved from that which took place via liaison officers in post at EUROPOL, for want of a suitable yardstick.

2.4.3. The second reason is to do with the absence of a consensus on the role and future of EUROPOL. A number of Member States consider that EUROPOL must be and remain an instrument for information exchange, while other Member States feel that EUROPOL must take on a wider role, including operational cooperation. This desire is expressed in the expectation that joint inquiry teams will be set up in future. Apart from these two major comments, a number of more specific difficulties emerged during the evaluation exercise.

2.4.4. All the States evaluated deplore the failure to set up a EUROPOL information system, which prevents rapid and effective cooperation between them. While all the Member States visited deplored this situation, it should be emphasised that they do not all seem to have the same level of involvement in this project. While some Member States say they are willing to supply EUROPOL databases by automatic extraction from their national files, some do not seem to have had very detailed discussion on the subject at national level.

2.4.5. In order to overcome these difficulties, the Member States principally exchange information with EUROPOL via Analysis Work Files (AWFs). However, some complain that the procedure for opening an AWF is too bureaucratic. To facilitate information exchange, some States make use of the MSOPES ¹system to exchange operational information as part of operational assistance to Member States. However, there is no unanimous agreement among the Member States evaluated about the opening of these files which are not provided for as such in the EUROPOL Convention.

2.4.6. In the criminal analysis field, most Member States expressed the wish that EUROPOL analysts could work more closely with analysts from the Member States. There are two fundamental preconditions for this: one is that EUROPOL be provided with a sufficient number of analysts for the tasks entrusted to it and the second that the Member States visited also have a sufficient number of analysts able to work in close collaboration with those of EUROPOL. This could help to avoid the criticism often voiced by representatives of the five countries visited that the information produced by the EUROPOL services has little added value.

2.4.7. Many Member States expressed the more general wish that the constraints on exchange of information between EUROPOL and the law-enforcement services be removed. Two Member States ² made a list of proposals on information of a police nature which they felt it should be possible to exchange more easily as part of the fight against international crime.

2.4.8. As regards representation by liaison officers from the Member States at EUROPOL, it has to be pointed out that there are differences which no doubt prejudice good cooperation to some extent. While some Member States for example have police and customs representatives, others have no customs representatives and this can in some cases hamper cooperation between different national departments. In addition to this problem, which is due to organisational reasons internal to each Member State, there are legal reasons, such as for example the failure of certain Member States to ratify the additional Protocol giving EUROPOL competence with regard to money laundering. ³

¹ Member States Operational Projects with EUROPOL Support

² Sweden and Belgium

³ Decision of the JHA Council of 30 November 2000, OJ C 358, 13.12.2000

2.4.9. The evaluators also noted real differences at national level in the involvement of the administrative hierarchy and consequently of the services active in promoting EUROPOL. Some States are very involved, both in the distribution of EUROPOL products and in training or awareness-raising campaigns in the form of a programme plan. Other Member States have more difficulties in distributing EUROPOL products and in developing day-to-day cooperation with the European police body. These difficulties revealed themselves particularly during the interviews in some practitioners' lack of knowledge of EUROPOL mechanisms.

2.4.10. While many Member States expressed ideas on future cooperation between EUROPOL and EUROJUST, the evaluators did not find the content of the proposed future additional cooperation between EUROPOL and EUROJUST very clear. A similar vagueness seems to persist regarding the respective roles of EUROPOL and OLAF, particularly with regard to all the subjects which directly or indirectly concern crime linked to fraud.