



**COUNCIL OF
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NOTE

from:	Presidency
to:	CATS
Subject:	Implementation of the MLA/Extradition Agreements with the US – next steps

On 25th of June 2003 two Agreements were signed between the United States of America and the European Union, one on extradition (J.O. of 19.07.2003, L 181/27) and one on mutual legal assistance (J.O. of 19.07.2003, L 181/34). The exchange of instruments between the European Union and the United States of America took place on 28 October 2009. Both EU-US Agreements as well as all the corresponding bilateral instruments entered into force on 1st of February 2010. Articles 3 of both EU-US treaties provide for their scope of application in relation to bilateral mutual legal assistance treaties with Member States and in the absence thereof.

At the CATS meeting of 10-11 February 2011, an idea of drafting a Handbook on the provisions of the EU-US Agreements was presented, and a relevant draft was later discussed at the COPEN Working Party meeting of 31st of March 2011,

The majority of delegations was of the opinion that a Handbook on the practical application of the EU-US mutual legal assistance and extradition agreements would serve little practical purpose, as the practitioners did not base their requests on the EU-US Agreements, but rather on the bilateral extradition and mutual legal assistance treaties each Member State had with the United States, in which the requirements of the EU-US Agreements were incorporated. The need to consult practitioners was also emphasised. This position was confirmed at the CATS meeting of 18th of May.

The operation of those treaties has been reviewed during the EU-US JHA informal Senior Officials Meeting in Cracow on 25-26 July 2011. The Presidency informed the US delegation about the position of Member States concerning the handbook. The subsequent discussion revealed that a number of problems in the cooperation with the US arise from differences in the interpretation of the relevant provisions of the agreements, for example the Article 4 of the MLA Agreement (identification of bank information). In view of the above, the Presidency suggested that a preferable avenue for discussing existing divergences would be a EU – US seminar to be organised at a later date - possibly in December 2011.

In light of the above, the Presidency would like to invite CATS to:

- ***support the idea of organizing a practitioners seminar as an appropriate next step in further discussions with the US;***
- ***indicate relevant problems in cooperation with the US in the field of MLA and extradition which could be discussed at the EU-US seminar.***