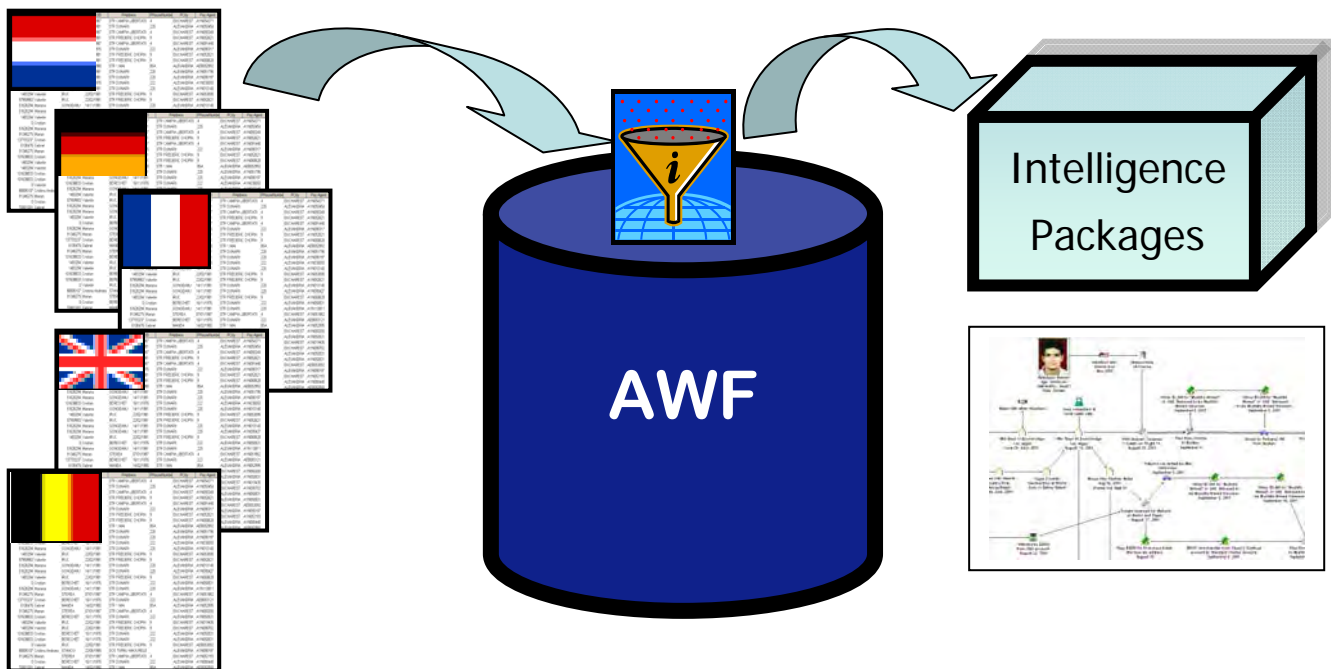


EUROPOL New AWF Concept Guide for MS and Third Parties



1. INTRODUCTION	4
2. SET UP AND ORGANISATION	4
2.1. AWF	4
2.2. Focal point (FP).....	5
2.2.1. <i>Triggers and Priority Setting</i>	5
2.2.2. <i>Opening</i>	6
2.2.3. <i>Membership</i>	7
2.2.4. <i>Closing</i>	7
2.3. Target Group (TG).....	7
2.3.1. <i>Triggers and Priority Setting</i>	8
2.3.2. <i>Opening</i>	8
2.3.3. <i>Membership</i>	8
2.3.4. <i>Closing</i>	9
2.4. Ad hoc operational support	9
2.5. Priority setting	9
2.6. Visualisation of the new AWF structure	10
3. ADDRESSING EUROPOL	11
4. USE OF INFORMATION	11
4.1. Handling Codes.....	11
4.2. Products and services	11
4.3. Access to AWF information	12
4.3.1. <i>Europol staff</i>	12
4.3.2. <i>ELOs</i>	12
4.3.3. <i>National experts and investigators</i>	12
5. ORGANISATION AND MANAGEMENT	12
5.1. ACTORS.....	12
5.1.1. <i>Operational Centre</i>	12
5.1.2. <i>National Experts</i>	13
5.1.3. <i>National Focal Point Coordinators</i>	13
5.1.4. <i>Regional Support Officer (RSO)</i>	13
5.1.5. <i>ELOs</i>	13
5.1.6. <i>HENUs</i>	13
5.2. FUNDING	13
ANNEX 1: OPENING ORDER AWF: GENERIC PART AWF SOC	14
1.1. Name of the file	14
1.2. Purpose of the file	14
1.3. Groups of persons on whom data are stored	15
1.4. General context leading to the decision to open the file.....	16
1.5. Participants in the analysis group at the time of the opening of the file ..	17
1.5.1. <i>Multiple analysis groups within an AWF</i>	17
1.5.2. <i>Managing analysis groups via Focal Points and Target Groups</i>	17
1.5.3. <i>Access to data from within Europol</i>	18
1.6. Conditions under which personal data stored in the file may be communicated, to which recipients and under what procedure.....	20

1.6.1.	<i>General principles</i>	20
1.6.2.	<i>Association of third parties</i>	20
1.7.	Time limits for examination and duration of storage of data.....	21
1.7.1.	<i>General principles</i>	21
1.7.2.	<i>Restricted data retention in Focal Point GNST RESOURCE</i>	21
1.7.3.	<i>Review of continuation of the file</i>	21
1.7.4.	<i>Method of establishing the audit log</i>	22
ANNEX 2: FOCAL POINT OPENING DOCUMENT EXAMPLE: FOCAL POINT CANNABIS		23
2.1.	Specific purpose.....	23
2.2.	Specific context leading to the opening of the Focal Point	23
2.3.	Supply or input of the data to be stored	26
2.4.	Groups of persons and nature of the data to be stored and sensitive personal data	27
2.5.	Embedded Target Groups	33
ANNEX 3: FOCAL POINT GNST RESOURCE - DESCRIPTION		37
3.1.	Specific purpose.....	37
3.2.	Specific context leading to the opening of Focal Point GNST RESOURCE .	37
3.2.1.	<i>Relation to Article 10(4) data processing</i>	37
3.2.2.	<i>Criteria for acceptance of data into Focal Point GNST RESOURCE</i>	38
3.2.3.	<i>Criteria for transferral of data from Focal Point GNST RESOURCE</i>	39
ANNEX 4: ASSOCIATION OF THIRD PARTIES WITH FOCAL POINTS		40
4.1.	Precondition	40
4.2.	Procedure	40
4.3.	Rights of the Third Party	40
4.4.	Limitations for the Third Party	40
4.5.	Additional safeguards for the Participants (MS) in an FP	41

1. Introduction

This document aims at explaining the guiding principles of Europol's New AWF Concept (NAC) to give Europol's stakeholders a firm understanding of the new AWF concept. It is drafted in a way that it addresses not only stakeholders in Europol but also the ENU's and Member State (and Third Party) investigators in the field.

The guide has been elaborated as a result of the work by a mixed Working Group (Europol – MS), which was established following the Heads of Europol National Unit (HENUs) meeting of January 2011.

The New AWF Concept project started at the end of 2010. The aim was to reorganise the AWF system, making it a more flexible and streamlined tool to serve MS in a more tailored and efficient way. It is destined to allow Europol to cope with the increase in workload while having the steady number of analytical resources, and maintaining and/or increasing the quality and data security standards. In order to reform the previous system of AWFs Europol set up a project with the involvement of both Europol and MS' representatives. Particularly the HENUs have been involved in this process by means of working groups. The HENUs unanimously agreed on 31st August 2011 on the NAC which resulted in the merging Europol's previously existing AWFs.

2. Set up and organisation

Three main concepts will determine the organisation of Europol's analytical work: the Analysis Work File (AWF), the Focal Point (FP), and the Target Group (TG).

Even though Europol's legal framework does not explicitly foresee Focal Points or Target Groups these definitions developed in consultation with the HENUs form a reasonable and legitimate implementation of the term 'analysis project' in the sense of the ECD.

Using terminology that is common in the world of law enforcement in fact facilitates the understanding of Europol's analysis projects not only by operational colleagues at Europol but also by its customers including officers in the field.

2.1. AWF¹

An AWF is an information processing system on specific crime areas which is intrinsically linked to specific forms of operational support offered by Europol.

In fact, an AWF is the only existing legal tool at European level to simultaneously store, process and analyse factual information ('hard' data) and in particular 'intelligence' (or 'soft' data), including personal data of a sensitive nature. Such possibility had not existed before Europol took up its activities in 1999. The legal basis for the AWF can be found in the ECD² and in the Analysis Rules³.

¹ Source: File no. 3300-468.

² Council Decision of 6 April 2009 establishing the European Police Office (2009/371/JHA), hereafter *ECD*.

³ Council Decision of 30 November 2009 adopting the implementing rules for Europol analysis work files, hereafter *Analysis Rules*.

The information provided to Europol is stored in a large, structured database which is the Europol Analysis System (EAS). All the information is linked (where relevant) and fit for analysis.

2.2. Focal point (FP)

A Focal Point is an area within an AWF which focuses on a certain phenomenon from a commodity based, thematic or regional angle. It allows Europol to provide analysis, prioritise resources, ensure purpose limitation and maintain focus on expertise.

Mechanism to open a Focal point:

- **The trigger** can be with Europol, the MS or EU bodies
- **The decision to open** lies with Europol, in consultation with the MS
- **The decision to close** lies with Europol, in consultation with the MS

An example of a FP with a **commodity based** angle would be a FP on Drugs Trafficking and Production or a FP on Euro Counterfeiting. A **thematic** based FP could be on Albanian speaking Organised Crime Groups or on VAT Fraud. Finally, a **regional** FP will focus on a certain geographical area such as for instance the Baltic Sea region.

The opening of a Focal Point is the result of **strategic or operational priority setting** which is why the duration is mid to long term (with a mandatory evaluation before it is 3 years in existence). Because of this longer duration (compared to the shorter lifespan of an operational project) and the immediate need to have the necessary expertise, the investment of resources will be higher right from the set up of the FP. A dedicated team of Europol specialists and analysts will be appointed.

Because of its **broader focus** (again compared to the specific goal of a Target Group for instance) a FP is likely to contain sub projects which are specific areas within the FP. In a FP on Cyber Crime, there might be a sub-project on “malware driven e-banking attacks” and another one on criminal networks using “e-mule” because of the specific nature of this type of crime.

For every FP, a “FP Group” will be established, composed of experts from Europol and the MS.

A FP will be the main **tool** by which Europol can perform a concerted and proactive information gathering and exchange on a certain phenomenon. This should allow Europol to provide operational analysis as well as expert and strategic support. Furthermore, the Focal Point should serve as a European **coordination mechanism** for the operational activities regarding its scope.

2.2.1. Triggers and Priority Setting

Europol will consider the opening of a FP when any one of a certain group of triggers occurs. Any proposal to open a FP must be supported by

- early strategic assessments
- and/or based on operational findings.

Europol will launch a test period to assess if the establishment of a FP is the best response. If a proposed FP (or one already created) is not supported by early findings or other information, another type of service may be offered.

Triggers to open a focal point:

- The **MS** and all the **bodies** representing them, such as COSI, Council, EU Presidency, Europol Management Board and the HENUs may propose the opening of a FP.
- Europol identifies by means of its primary strategic analysis products (e.g. the **SOCTA**) that a significant threat relating to a mandated criminal area demands the creation of a FP⁴. If the SOCTA would for instance identify Chinese OCG as a major threat, Europol will consider the creation of a thematic FP on Chinese Triads. Europol will ensure an internal priority setting between FPs in terms of resource allocation.
- Every two years, Europol will make an **interim threat assessment** which may lead to the amendment of priorities (opening of a new FP or closing of existing one) or the reassessment of the internal ranking leading for instance to reallocation of resources between FPs.
- Europol has also a “complementing” mechanism by which it detects **trends and patterns**. This again can lead Europol to open a new commodity or criminal group oriented FP. In such case however, since the establishment of the FP is not based on the main strategic analysis papers, there will be a test period established as described above.

2.2.2. Opening

The opening of a FP has to be easy and swift. Nevertheless, there are certain elements of formality and priority setting attached to it. These will be described in the following points.

The **decision to open a FP will be taken by Europol after having consulted the MS**. Following a proposal from Operations Department (OD), the Director of Europol formalises the opening of a FP by signing the relevant “**Annex to the AWF Opening Order**”. This annex is a **legal document** which explains the purpose of the FP and lists the participating MS and associated Third Parties. If data on a specific category of persons (for instance victims) or sensitive data (for instance ethnic origin) are needed for the purpose of this FP, this will be specified in this Annex as well. Europol’s Joint Supervisory Body (JSB) and the Management Board (MB) will receive a copy of all Annexes in accordance with Article 16(2) ECD. An example of such Annex is attached at the end of this document in *annex 2*.

One of the differences between opening an AWF and opening a FP is that no feasibility study will be required. In the past, feasibility studies were needed because Europol had to open an AWF before operational information could be received. Within the new AWF concept the former feasibility study is replaced by targeted information gathering. This means that whenever MS are confronted with a new crime phenomenon, they may simply send their information to Europol, knowing it will already be processed and assessed by the relevant experts at Europol.

Six months after the opening of a FP, Europol will make an assessment and discuss this with the MS in order to determine the best possible course of action.

⁴ This is a consequence of the draft Council Conclusions on the Harmony Project – “A generic European Crime Intelligence Model – Bringing together the existing instruments and strengthening Europol’s central role”- of 25 October 2010, ref 15358/10.

2.2.3. Membership

One of the core assumptions under the new AWF concept is that there can be multiple analysis groups within one AWF.

All MS concerned by the analysis can **participate** in the different analysis groups in the new SOC and CT AWFs. All Third Parties AWF members with operational agreement can become **associated** to the activities of these analysis groups within the new AWFs after the unanimous agreement of the FP members.

By being a member of a Focal Point, a MS and TP indicate that they want to invest and share their knowledge and expertise on that particular criminal activity. By doing so, they also assign a responsible national expert or organisational entity to the Focal point.

Once a year, the Analysis Group of every Focal Point will assess the participation of its members, based on the so called WG3 statistics⁵ figures for the past 4 quarters. The assessment must allow Focal Point members to evaluate their participation in the Focal Point and to take follow up actions if necessary.

At all times, MS and TP can regulate the dissemination of information they send to the FP by applying a Handling Code (see 6.1.)

2.2.4. Closing

The decision to close a FP lies again with **Europol in consultation with the MS**. Such decision will be based on:

- Objective has been reached;
- Insufficient business need in the MS demonstrated by a consistent lack of contributions;
- Decrease in priority, for instance as a result of the intermediate SOCTA.

Once the Focal point is closed, its data will be either deleted or kept in accordance with Europol's legal framework.

2.3. Target Group (TG)

A Target Group is an operational project with a dedicated Europol team to support an international criminal investigation or criminal intelligence operation against a specific target.

Mechanism to open a Target Group:

- **The trigger** can come from Europol or the MS;
- **The decision to open** lies with Europol;
- **The decision to close** lies with Europol in consultation with the MS.

By "**operational project**" is meant a finite set of operational actions. It follows the regular management of operational cases.

By "**specific target**" is meant the suspect or suspects against whom the investigation or intelligence operation has been initiated.

⁵ These statistics are provided by Europol to the HENUs on a quarterly basis. They detail the total number of contributions that every participant sent to the Focal Point as well as the average quality thereof.

By “**criminal investigation**” is meant a procedural stage within which measures are taken with a view to establishing and identifying facts, suspects and circumstances regarding one or several identified concrete criminal acts.

By “**criminal intelligence operation**” is meant a procedural stage, not yet having reached the stage of a criminal investigation, within which a law enforcement authority collects, processes and analyses information about crime or criminal activities.

The use of “**criminal**” in the proceeding paragraphs has to be understood as falling under Europol’s mandate.

2.3.1. Triggers and Priority Setting

The creation of a TG is the result of the operational priority setting. It is the direct reaction to an identified operational need in the MS. Since it aims at a specific target, the scope will be narrow and the lifespan will be short, linked to the operational need in the MS.

Precisely because the TG answers an operational need, there will be TGs outside of the existing FPs. The only difference is the priority given which will lead to a higher likelihood of starting up the TG as well as on the level of resource allocation when the TG is set up inside an existing FP.

In case a specific category of persons (for instance victims) or sensitive data (for instance ethnic origin) is needed for the purpose of the TG, this will be specified in the Terms of Reference of the Target Group. The JSB will receive a copy of this document.

2.3.2. Opening

Just as with the FP, the opening of a TG has to be swift and easy. Also here, there are formalities to take into account. TGs that can not be integrated into an already existing FP will also require the formal establishment of a dedicated analysis group.

The JSB and MB have to be informed about the existence of the TGs as well as about the number of participants. The decision of OD to open a TG has to be formalised and the rules of engagement as well as the objectives and milestones have to be prescribed.

The initiating document of a TG (whether it is the terms of reference for a TG or a JIT arrangement) will be signed for Europol by the responsible Operations Department Head of Unit.

2.3.3. Membership

Because of its purpose, a TG will have a more “limited” membership, the information being available only to the participants in the TG – unless they decide otherwise. The participants are those countries that initiated the TG. Member States and Third Parties wishing to join an ongoing TG will be required to seek the unanimous approval of the existing TG members. The difference between a MS and a Third Party is twofold:

- When a MS is denied access to a TG, the appeal procedure as described in Art 14 (5) ECD shall apply. No such possibility is foreseen for Third Parties;
- Third Parties will be required to apply to become associated to the activities of the analysis group dealing with the TG. This association procedure is in line with Article 14(8) ECD and is explained in more detail in *annex 4*.

The unanimous decision of the TG members aims at the participating MS only. Third Parties do not have the possibility to block a MS. They can however put restrictions on the information they provide to the TG.

Data sent to a TG will carry a **handling code** H3: TG X from the provider unless the provider chooses otherwise. This will immediately tell Europol with whom the data can be shared.

2.3.4. Closing

The decision to close a TG lies again with **Europol in consultation with the MS**. Such decision will be based on:

- Objective has been reached;
- Insufficient business need in the MS demonstrated by a consistent lack of contributions;

Upon closure of the TG, the participants can decide to make the information available to others.

2.4. Ad hoc operational support

Requests that are accepted in the AWF, but not linked immediately to prioritised areas or identified operational projects will anyhow be processed in Focal Point GNST RESOURCE.

The purpose of processing operations within Focal Point GNST is restricted to simple cross-matching operations and informing Member States of the respective links detected in line with the duty to notify (Article 17 ECD). Furthermore, trends and patterns across different commodities and criminal groups can be detected.

Europol deems 18 months a proportionate data retention period in this regard. Afterwards the data in Focal Point GNST shall either be deleted or transferred to another Focal Point or Target Group for purposes of analysis of specific cases having a direct operational aim. Depending on the links identified in the meantime, the information might be transferred to the Europol Information System, following approval by the provider or otherwise will be deleted⁶.

2.5. Priority setting

Priority setting is needed since Europol doesn't have the manpower to answer all requests. The result of this priority setting is that some requests will be denied or have an alternative support proposed. The level of support will be impacted by the prioritisation. It also has an effect on the resource allocation to the various projects. The priority setting is done autonomously by Europol.

⁶ See Annex 3 for a detailed description.

2.6. Visualisation of the new AWF structure

AWF SOC							
Focal Point MTIC	Focal Point SUSTRANS	Focal Point MONITOR	Focal Point SOYA		TG	TG	
Focal Point CANNABIS	Focal Point PHOENIX	Focal Point TWINS		TG	Focal Point SYNERGY		
TG Focal Point COPPER	TG Focal Point TERMINAL	TG Focal Point CYBORG	TG	Focal Point FURTUM			
TG Focal Point HEROIN	Focal Point CHECK POINT	TG Focal Point COPY	TG	Focal Point COLA			
TG Focal Point SMOKE	TG Focal Point EEOC	Focal Point GNST			Target Group 1	Target Group 2	Target Group 3
				Target Group 4	Target Group 5	Target Group 6	

AWF CT							
TG Focal Point HYDRA	TG Focal Point DOLPHIN	Focal Point TFTP			Focal Point CHECK the WEB		
Focal Point PIRACY	Focal Point GNST	Target Group 1	Target Group 2	Target Group 3	Target Group 7	Target Group 8	Target Group 9
		Target Group 4	Target Group 5	Target Group 6	Target Group 10	Target Group 11	Target Group 12

3. Addressing Europol

For the operational messages, the MS will have the following options to choose from:

- The message is sent to one (or both) of the two AWFs (SOC or CT) without further specification. The information will be cross checked and the Operational Centre will identify the most appropriate FP/TG to deal with it. Europol will inform the sender of the message of the outcome of the cross checks and of the FP/TG dealing with the message.
- The message is sent directly to a FP or TG. The information will be cross checked by the Operational Centre, and the respective FP/TG team will further handle the message.
- The message is sent to the Operational Centre for cross checking purposes only, with a view of assessing the relevance in terms of Europol's mandate and any FP/TG (automatic cross checking of the information during 6 months, no use of the information unless the provider agrees).⁷

4. Use of information

This chapter describes what happens when the information reaches Europol, including the dissemination of the information (regulated by the Handling Codes), the responses Europol can give to requests (described as service levels), as well as who has what access to the information.

4.1. Handling Codes

Through applying the selected Handling Code the provider of the information indicates with whom (other MS, TP) Europol is allowed to share the information. Europol is bound to follow the Handling Code set by the information provider. Any dissemination of information shall only take place within the limitations as stipulated by the applied Handling Code. As a result, the principle of ownership by the information provider is maintained and safeguarded during the process of handling the information at Europol⁸.

4.2. Products and services

Europol's Catalogue of Products and Services⁹ provides for a full overview of what can be expected from Europol. All incoming requests will be responded by Europol as quickly as possible. That is regardless of the fact of whether a FP/TG is addressed or not.

Information will always be cross checked against Europol's datasets (AWFs and EIS), and also against Interpol and the Schengen Information System, when appropriate. The format in which the information has to be sent to Europol is not of primary relevance, as the aim is to get it as quickly as possible to Europol with the least effort on the part of the investigators.

Naturally, in order to result in proper analysis, the information has to meet certain standards - e.g. sending a list of names without any context is enough for cross checking purposes, but not for analysis. For the latter, the information of the investigation itself has to be included, as well as a

⁷ Art. 10(4) of the ECD refers.

⁸ The use of handling codes is explained in detail in a separate document (EDOC#602182).

⁹ EDOC# 451846v6.

maximum of contextual information (reasons for suspicion, addresses, telephone number, contacts and associates, etc).

Every FP has a data collection plan, explaining in detail what kind and format of information has to be delivered in order to benefit from the proper Europol product and service.

4.3. Access to AWF information

4.3.1. Europol staff

Only duly authorised officials have access to the information in the AWF. They have direct access to content regardless of any restriction put on the information. This broad access to information is balanced by an extended audit procedure as described in chapter 8 of the Opening Orders of AWFs SOC and CT¹⁰.

4.3.2. ELOs

MS liaison officers can consult the Index function (System)¹¹, in order to find out if Europol AWFs hold any information on a certain entity. In case of a hit, the MS liaison officer will be contacted by a Europol staff member, with a view to assist the investigator in gaining access to the relevant information, handling codes permitting.

4.3.3. National experts and investigators

In accordance with the Europol legal framework¹², national experts (see chapter 7) can have read access to the data held in the AWF, as decided by the Europol Management Board¹³, and following the unanimous decision of the respective Analysis Group.

The dissemination of Europol's products within each country is decided by the Member State concerned. Just as the ELOs, the national experts and investigators have indirect access to the AWF information. Via SIENA they will receive the results of the cross checking and analysis which concern them. The national experts will also receive all Europol's products falling within their competence. It is important to keep in mind that any investigator, within its competences and according to national procedures, can benefit from Europol's products.

5. ORGANISATION AND MANAGEMENT

5.1. ACTORS

5.1.1. Operational Centre

The Operational Centre is the unit at Europol responsible for the overall management of the AWFs. This unit has access to all the information at Europol and is reachable 24/7. As a result, at any given moment, requests from MS or Third Parties can be answered.

¹⁰ See Annex 1 to this document

¹¹ It is foreseen that the ENU will have access to the Index function (System).

¹² Art 14 Analysis Rules.

¹³ File No: 2450-51r4

5.1.2. National Experts

Every MS or TP that participates in a FP nominates national experts or organisational entities that are expert in the crime field addressed by the FP, in order to ensure that relevant national information reaches the FP.

Every FP will invite at least once a year the nominated experts or organisational entities to meet at Europol. The purpose of the meeting is to discuss the developments of the FP and to share and increase knowledge and expertise.

5.1.3. National Focal Point Coordinators

Every partner of Europol should have a National FP Coordinator. The role of this person is to oversee the cooperation with Europol. He or she has to make sure that all the national experts have the same understanding of what can be expected from Europol. This person should advise the HENU on areas of improvement but also inform Europol of any shortcomings identified.

5.1.4. Regional Support Officer (RSO)

The RSO is a Europol official who acts as general contact point for countries within a certain region. This person will promote Europol actively throughout the region. He or she will focus on those things which are specific for a certain region.

5.1.5. ELOs

Europol's Liaison Officers represent the interests of their country at Europol. One of their primary roles is to advise both Europol and their colleagues in the MS in the exchange of information. This may be advice on which FP to address as well as advice on bilateral exchange with the other MS and with Europol.

5.1.6. HENUs

The Heads of Europol's National Units form the most important advisory body to Europol in terms of operational matters. They are the first point of contact for Europol when it comes to starting up a new FP or closing one.

5.2. FUNDING

Europol provides financial support for operational meetings. The details are explained in the Guideline for financial support for meetings of the Operations Department ¹⁴. Europol can finance directly or reimburse travel and accommodation costs of experts from EU Member states or from third Countries that attend meetings/conferences at Europol.

¹⁴ File 2610-159rev1 Guideline financial support for meetings of the Operations Department

Annex 1: Opening Order AWF: generic part AWF SOC

1.1. Name of the file

The name of the file is: SOC – Serious and Organised Crime.

1.2. Purpose of the file

The purpose of the file is to support competent authorities of the Member States as well as third party experts associated to the activities of the respective analysis groups in preventing and combating organised crime and other forms of serious crime as listed in the Annex to the Europol Council Decision (ECD).¹⁵ This purpose is further elaborated by definition of Focal Points and Target Groups as outlined in the **Annexes** to this opening order. Focal Point and Target Group descriptions are legally speaking a specification of the purpose of the file in the sense of Article 16(1)(b) ECD.

In accordance with Article 16(2) ECD the Management Board and the Joint Supervisory Body will immediately be informed by the Director of any subsequent change in the particulars referred to in paragraph 16(1) ECD and shall receive the dossier. This includes the opening or closure of a Focal Point or Target Group as well as any other modification of the purpose of the file for instance by means of changing the scope of an existing Focal Point or Target Group.

Article 16(2) ECD also applies to any subsequent change in the particulars referred to in paragraph 16(1) ECD as defined in the following chapters of this opening order.

¹⁵ See Articles 3 and 4 ECD.

1.3. Groups of persons on whom data are stored

The File shall include data on:

a) Persons, who, in accordance with the national law of the Member State concerned, are suspected of having committed or having taken part in a criminal offence in respect of which Europol is competent or who have been convicted of such an offence. (In the document/annexes further referred as “ suspects and convicted persons ”)
b) Persons regarding whom there are factual indications or reasonable grounds under the national law of the Member State concerned to believe that they will commit criminal offences in respect of which Europol is competent. (In the document/annexes further referred as “ potential criminals ”)
c) Persons who might be called upon to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings. (In the document/annexes further referred as “ witnesses ”)
d) Persons who have been the victims of one of the offences under consideration or with regards to whom certain facts give reason to believe that they could be the victims of such an offence. (In the document/annexes further referred as “ victims ”)
e) Contacts and associates of the persons mentioned under points a) and b). (In the document/annexes further referred as “ contacts and associates ”)
f) Persons who can provide information on the criminal offences under consideration. (In the document/annexes further referred as “ informants ”)
g) With their permission: officers of the competent authorities of the Member States who are involved in the prevention of or investigation into the offences Europol is competent. (In the document/annexes further referred as “ law enforcement officers ”)

The inclusion of the groups of persons as mentioned in the table above will only be stored in the file if indicated in the annex of each Focal point.

1.4. General context leading to the decision to open the file

Criminal groups are increasingly multi-commodity and poly-criminal. According to the OCTA 2011 the best resourced groups have gathered diverse portfolios of criminal business interests, improving their resilience at a time of economic austerity and strengthening their capability to identify and exploit new illicit markets. An increasingly collaborative atmosphere has also intensified the practice of barter, in which illicit commodities are exchanged rather than purchased with cash. This, and a marked tendency for groups to engage in activities such as currency counterfeiting and property crime in order to fund others such as drug trafficking, has made organised crime activities less visible to authorities targeting selected areas of crime separately.

A whole number of task descriptions in the ECD deal with crime analysis. The most prominent ones are to be found in Article 5(1) ECD. Article 5(1)(a) ECD refers to collection, storage, analysis and exchange of information and intelligence. According to Article 5(1)(e) Europol is tasked to provide intelligence and analytical support to Member States in connection with major international events. Article 5(1)(f) ECD deals with the preparation of threat assessments, strategic analyses and general situation reports relating to Europol's objective, including organised crime threat assessments.

Articles 5 and 14 ECD grant Europol some leeway on how to fulfil these tasks in an efficient and effective manner while maintaining its high data protection and security standards.

The traditional vertical thinking approach has proven effective but incomplete and has encouraged a selective type of crime analysis which needs to be complemented by a more generative lateral thinking approach.¹⁶

The applied AWF concept enables Europol's analysts and specialists to see beyond one's own nose in order to overcome commodity or criminal group driven container thinking and compartmentalisation. As a consequence the detection of trends and patterns across different commodities and criminal groups is significantly facilitated by enabling the combination of contextual information beyond entity level of already structured intelligence. Links between investigations and common *modi operandi* can easier be identified as well as cross-matches immediately checked for their relevance. Crime-related information clearly falling within Europol's mandate and of relevance, in particular, to its principal task defined in Article 5(a) ECD can be processed in a dedicated Focal Point dealing with analysis of a **general nature** and **strategic type** for the purpose of responsible, meaningful and transparent **resource** allocation (GNST RESOURCE). This applies even if provided data are not necessarily within the current focus of law enforcement throughout Europe due to differently set priorities (see respective Annex for further details).

The applied AWF concept takes due account of the importance of intelligence analysis that can draw on all relevant sources of information. The biggest impediment to all-source analysis – to a greater likelihood of connecting the dots – is the human or systemic resistance to sharing information.¹⁷

The applied AWF concept provides enhanced analysis capabilities enabling the organisation to tackle the complexity of serious and organised crime as well as terrorism in a more efficient manner without sacrificing data protection and security standards.

¹⁶ Also see *Edward de Bono*, Lateral thinking, p. 7 ff.

¹⁷ Also see 9/11 Commission Report, Final Report of the National Commission on Terrorist Attacks upon the United States, p. 416.

1.5. Participants in the analysis group at the time of the opening of the file

1.5.1. *Multiple analysis groups within an AWF*

One of the core assumptions under the applied AWF concept is that there can be various types of analysis in multiple analysis groups within one AWF.

The ECD is brief when it comes to a legal definition of what constitutes crime analysis. According to Article 14(2) ECD analysis work files shall be opened for the purposes of analysis defined as the assembly, processing or use of data with the aim of assisting criminal investigations.

Article 14(4) ECD draws a distinction between different kinds of analysis. On the one hand information can be processed for analysis of a general nature and strategic type. On the other hand analysis can bear on specific cases not (or at least not necessarily) concerning all Member States and having a direct operational aim (also see Annex 1 to this opening order).

Both types of analysis are interconnected in the sense that strategic analysis focuses on being able to creatively think one's way through issues at macro level, yet constantly retain pragmatic links to the inevitable tactical and operational impact and outcomes. Certainly any strategic intelligence product that does not answer the question "What can we do about it at a practical level?" is incomplete.¹⁸ Consequently, under the applied concept it is assumed that both types of analysis can form specific 'analysis projects' within the same file.

According to Article 14(2) ECD each analysis project shall entail the establishment of an analysis group closely associating analysts and other Europol staff designated by the Director and liaison officers and/or experts from the Member States supplying the information or concerned by the analysis. Even though Article 14(2) last sentence and Article 16(1)(f) ECD refer to one analysis group per file this does not prevent the establishment of more than one analysis group per AWF. This is under the condition that the very standards of Article 14(2) ECD regulating the establishment of analysis groups are complied with. The aim is to maintain Europol's high data protection standards which benefit from a formalised approach towards the analysis of different natures and types within the same file. This means that under the applied AWF concept there can be multiple analysis groups within one AWF.

1.5.2. *Managing analysis groups via Focal Points and Target Groups*

In practical terms the different analysis groups within AWF SOC will each be responsible for a specific Focal Point and/or Target Group.

A Focal Point is an area within an AWF which focuses on a certain phenomenon from a commodity based, thematic or regional angle.¹⁹ It allows Europol to provide analysis, prioritise resources, ensure purpose limitation and maintain focus on expertise.

A Target Group is an operational project with a dedicated Europol team to support an international criminal investigation or criminal intelligence operation against a specific target.

The distinction between Focal Points and Target Groups primarily lies with different types of analysis conducted and with different service levels Europol

¹⁸ Don McDowell, *Strategic Intelligence*, p. 7, also see Jerry Ratcliffe, *Intelligence-Led Policing*, p. 100, 155, 163; Samantha Gwin e.a. (ed.), *Exploring Crime Analysis*, p. 1 f.

¹⁹ This includes a dedicated Focal Point dealing with analysis of a **general nature** and **strategic type** for the purpose of responsible, meaningful and transparent **resource** allocation (GNST RESOURCE), see Annex for further details.

allocates to the respective scenarios in order to prioritise tasks and mindfully invest available resources²⁰:

Level	Actors	Response time	Cross matches	Operational analysis	Strategic analysis	Support on the spot	Operational support from Europol headquarters
Medium level reply	Focal Point Team	Medium	X	X	X		X
High level reply	Target Group Team	Short	X	X		X	X

Even though Europol’s legal framework does not explicitly foresee ‘Focal Points’ or ‘Target Groups’ the above provided definitions form a legitimate implementation of the term ‘analysis project’ in the sense of the ECD. The definitions were developed in consultation with the HENUs based on guidance received from the JSB regarding sub-entities within AWFs which are also accepted under the former AWF concept.

Moreover, using terminology that is common in the world of law enforcement facilitates the understanding of Europol’s analysis projects not only by operational colleagues at Europol but also by customers including officers in the field.

From a data protection perspective it is important to note that all data processed within an AWF is part of either a Focal Point or a Target Group subject to a specific purpose description. Each Focal Point has its own analysis group.

Target Groups that can not be integrated into an already existing Focal Point also require the formal establishment of a dedicated analysis group. This is primarily of relevance when it comes to the association of third parties to the activities of such analysis groups (see chapter 6.2).

Target Groups within a Focal Point do not necessarily comprise all members of this Focal Point but potentially only a selection of those which are directly affected by the underlying criminal investigation.

In order to ensure full transparency towards the competent data protection authority the composition of each Focal Point and Target Group including those within existing Focal Points will be communicated to the JSB via this opening order (see chapter 2).

1.5.3. Access to data from within Europol

The applied concept entails that analysts will in principle have access to all information processed in the AWF. The same applies to specialists who have read-only access.

²⁰ Prioritisation is vital as only few organisations have the capacity to investigate more than 5-10% of the organised crime groups they are aware of, see *Ratcliffe, Intelligence-Led Policing*, p. 119; also see *David L. Carter, Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies*, p. 59.

However, purpose limitation plays a decisive role within the AWF and remains enforceable despite the fact that the single analyst will have the ability to see beyond the Focal Point/Target Group to which he/she is allocated to.

The purpose limitation principle states that collected data may only be 'processed' for specific, explicit and legitimate purposes. The legal definition of 'data processing' is broad and includes the elements of 'consultation' of data as well as any further 'usage'.²¹

A distinction is drawn between different forms of processing operations depending on their potential impact on data subjects.

'Consultation' of data beyond the allocated Focal Point/Target Group aims at improving the detection of increasingly multi-commodity and poly-criminal serious and organised crime.

The criterion of serving an 'explicit and legitimate purpose' is fulfilled in cases of 'motivated consultations'. A triggering event for such a 'motivated consultation' of data beyond the allocated Focal Point/Target Group could be a cross-match with data already processed in another Focal Point/Target Group. Another trigger could be an investigative lead, i.e. factual indications or reasonable grounds for believing that a certain manual query could result in additional criminal intelligence fostering the purpose of the own Focal Point/Target Group. Against this background access beyond the own Focal Point/Target Group is not unconditional but limited to 'motivated consultations' in the above sense.

The above is an 'explicit and legitimate purpose' in the sense of the purpose limitation principle as far as 'consultation' of data beyond the allocated Focal Point/Target Group is concerned. Further 'usage' of data requires a more specific purpose description as defined per Focal Point and Target Group (see Annexes I).

As a consequence whenever analysis activity goes beyond pure consultation of data, in particular, when it comes to drafting analysis reports, a clear link to the specific purpose of a Focal Point or Target Group must be drawn and processing operations be limited to the respective data categories.

Europol will implement appropriate auditing capabilities in order to ensure full traceability of such user behaviour as further specified in chapter 8 below.

Before any analysis result containing data from other Focal Points or Target Groups can be distributed, the data owner has to provide consent in accordance with the data owner principle. This takes due account of the fact that the different analysis groups within an AWF might consist of different members.

Duly authorised members of the Operational Centre shall have access to data processed in AWF SOC as well as AWF CT (File no.: 3300-636) in order to fulfil their co-ordination role. The same applies to duly authorised officials for quality control purposes and the DPO for data protection auditing purposes.

²¹ Processing of personal data includes the collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of personal data.

1.6. Conditions under which personal data stored in the file may be communicated, to which recipients and under what procedure

1.6.1. General principles

Data stored may only be retrieved from the file by participants in the respective Focal Point/Target Group. After retrieval, such data may be communicated freely to all members of the analysis group. However, where the data are marked with a Europol Security level, such communications shall be subject to the applicable articles of the Confidentiality Regulations and the Security Manual.

Any dissemination or operational use of analysis data shall be decided upon in consultation with the participants in the analysis. A Member State joining an analysis in progress may not, in particular, disseminate or use the data without the prior agreement of the Member States initially involved.

Personal data retrieved from the file may be transmitted or utilised only by the competent authorities of the Member States in order to prevent and combat crimes falling within the competence of Europol and to combat other serious forms of crime

In communicating data retrieved from the file, all members of the analysis groups shall observe any particular restrictions on the usage of data imposed by the communicating Member State or third party. In particular, sensitive personal data may be transmitted only by agreement with the Member State which supplied the data.

Personal data retrieved from the file may only be transmitted by Europol to third States or bodies in accordance with the relevant provisions of the Council Decision and the rules governing Europol's relations with partners, as well as in accordance with an agreement between Europol and those third States or bodies, where applicable.

For any dissemination in accordance with this chapter, a report will be drawn up which will specify as a minimum the date and purpose of the dissemination, the data concerned, and the intended recipient(s).

1.6.2. Association of third parties

The association of third parties shall be in compliance with Article 14(8) ECD which provides the basis for Europol to invite experts from the entities referred to in Articles 22(1) and 23(1) ECD to be associated with the activities of an analysis group. The prerequisites are that an operational cooperation agreement is in force, the association is in the interest of Member States, the third party is directly concerned by the analysis work and participants to the analysis group unanimously consent on the association.

Under the applied concept third parties are not associated to the AWF as a whole but to analysis groups within the file. Third parties hence require the conclusion of an association arrangement in order to be associated with the activities of a Focal Point. Target Groups within that Focal Point will already be covered by the same association arrangement.

As regards Target Groups outside the scope of an existing Focal Point third parties again require the conclusion of an arrangement in order to be associated with the activities of the analysis group exclusively dealing with this particular Target Group.

Under the applied AWF concept subject to due observance of handling codes third parties will still only be entitled to receive analysis results concerning them. Art. 14(2) ECD stipulates participants of the analysis group may retrieve data from the file. Therefore only participants (and not associated third parties) have the

right to retrieve data. The extent to which such retrieval may take place and any conditions and restrictions that apply are subject to unanimous consent of the analysis group in accordance with Article 14(2) AWF Rules.

The above takes account of Art. 3(3)(c) MB Decision implementing Art. 14(8) ECD which stipulates association arrangements shall ensure that associated third party's experts will be entitled to receive (only) analysis results which concern the third party they represent.

1.7. Time limits for examination and duration of storage of data

1.7.1. *General principles*

The time limits for examination of all data entered into the file shall be in accordance with Article 20 of the Europol Council Decision and Article 7 of the rules applicable to Europol Analysis Files. All data will be reviewed if circumstances arise which suggest that the data have to be deleted or corrected. The review will be documented.

1.7.2. *Restricted data retention in Focal Point GNST RESOURCE*

Analysis of a **general nature** and **strategic type** for the purpose of responsible, meaningful and transparent **resource** allocation (GNST RESOURCE) does not require retaining data as long as is the case for fully-fledged analysis bearing on specific cases and having a direct operational aim. A simple cross-matching operation will be performed upon receipt of data which might already reveal a certain cluster in combination with other recent contributions.

However, also where this initial cross-matching operation does not trigger immediate results, the data should be kept for a specified term in order to allow analysts to detect trends and patterns of crimes clearly falling within Europol's mandate which might otherwise not be uncovered.

Europol deems 18 months a necessary and proportionate data retention period with a view to the particular analytical purpose of Focal Point GNST RESOURCE. From an information management perspective this ties in with the fact that Europol delivers its main strategic analytical products such as OCTA and TE-SAT on an annual basis and the future Serious and Organised Crime Threat Assessment (SOCTA) every four years.

The justification of the proposed 18 months retention period is as follows: It is necessary to observe longer periods of time in order to detect trends and patterns. In concrete terms, the 18 months term will provide analysts with the opportunity to collate sufficient data during 12 months, so that in the course of the following 6 months they are in a position to detect trends and patterns.

Upon expiry of 18 months data in Focal Point GNST RESOURCE shall either be deleted or transferred to another Focal Point or Target Group for purposes of analysis of specific cases having a direct operational aim.

1.7.3. *Review of continuation of the file*

The Council Act of 27 November 2003 amending the Europol Convention, the so-called Danish protocol, obliged Europol to review the need for the continuation of analysis work files (AWFs) before the expiry of a three-year period. The Danish protocol entered into force on 18 April 2007 and the respective legal review obligation was maintained under Article 16(3) ECD.

The continuation of the AWF will be reviewed in accordance with Article 16(3) ECD, i.e. before the expiry of a three-year period as of its opening. The results will be communicated to the MB and the JSB. In line with established practice

information provided to the Management Board and the Joint Supervisory Body in the context of amendments of the opening order also entails elements justifying the strict need for continuation of the file in accordance with Article 16(3) ECD.

In the context of the review of the continuation of the file there is a legal requirement to take due account of each Focal Point and each Target Group existing in the file. The reason for this is that the specifications of the purpose of the file by means of Focal Points and Target Groups will influence the decision whether a continuation "(...) is strictly necessary for the purpose of the file (in all its specifications)".

Even if the review comes to the conclusion that AWF SOC needs to be continued the closure of a Focal Point or Target Group would be legally required as a decision *maior ad minus* whenever this sub-entity is no longer strictly necessary for the purpose of the file.

Data of closed Focal Points or Target Groups shall either be deleted or transferred to another Focal Point or Target Group. Transferral of data to another Focal Point or Target Group may, however, only take place as far as this is necessary for the purpose of the other Focal Point or Target Group. Again, the Management Board and the Joint Supervisory Body will be informed accordingly as the specification of the purpose of the file is concerned.

The transparency function of Article 7(4) AWF Rules is not affected by the applied AWF concept. This provision stipulates personal data may not be retained for a period which is longer than that referred to in Article 20(1) ECD. Where as a consequence of the continuation of the file data concerning witnesses, victims, contacts and associates or informants are stored for a period exceeding five years the JSB will be informed accordingly.

An overview on the current state of play of the review in accordance with Article 16(3) ECD is provided as Annex II to this opening order.

1.7.4. Method of establishing the audit log

For all retrievals and attempted retrievals of personal data from this Analysis Work File, it will be possible to draw up reports containing as a minimum:

- a unique reference number related to the retrieval or the attempted retrieval
- which of the components of the AWF, namely the Focal Point or Target Group, was accessed or consulted,
- the identification of the user,
- the date and time of the retrieval or consultation, including attempted retrievals,
- the identity of the person or persons concerning whom data were queried or accessed and displayed or the identification of the record retrieved.

Annex 2: Focal Point Opening document example: Focal Point Cannabis

2.1. Specific purpose

The purpose of this Focal Point is to support competent authorities of the Member States, as mentioned in Article 3 of the Europol Council Decision, and Third States and organisations which are associated to the Focal Point, in preventing and combating the forms of criminality within Europol's mandate associated with the illicit activities of criminal organisations involved in unlawful cannabis trafficking and production as well as other related criminal activities uncovered in the course of investigations into these groups, which includes e.g. money laundering activities.

2.2. Specific context leading to the opening of the Focal Point

In December 2004, the European Council endorsed the European Union Strategy on Drugs (2005-2012), which set a new framework, objectives and priorities for two consecutive four-year Action Plans. The strategy inter-alia still aims at taking action against drug production, cross border trafficking of drugs and diversion of precursors, through effective co-operation embedded in a joint approach. In the area of supply reduction the European Union Action Plan on Drugs 2009-2012 refers to a measurable improvement in the effectiveness of law enforcement in the field of drugs at European Union level. Inter-alia Europol is requested to fully exercise the respective role for which it was created, in the interest of efficiency, EU compatibility of national initiatives, intra-EU coordination, and economies of scale. To enhance the effective law enforcement cooperation in the EU to counter drug production and trafficking, Member States and Europol are requested to improve the quality of intelligence data provided via Europol National Units to Europol and its related projects including Analysis Work Files (AWF). The emphasis should be on serious organised crime and cooperation from those Member States most highly impacting upon the wider EU drugs markets.

In most Member States countries, the combating of drugs trafficking (in general) is a priority for law enforcement authorities. In some Member States, specific projects are already in place to tackle illicit production and/or trafficking of cannabis.

Following a Member State proposal the HENUs advised Europol in June 2008 to initiate a feasibility study on cannabis. The outcomes of the feasibility study and related expert meetings held in February and April 2009 were presented in the HENUs meetings in January, March and May 2009. Based on the findings of the feasibility study and the expert meetings, the HENUs advised to open a Cannabis project at Europol supported by an Analysis Work File on Cannabis.

The European Union is a major consumer market for cannabis. Huge quantities of cannabis are trafficked to the European Union via Africa and much of it is then distributed globally. Cannabis is the most prevalent drug in terms of production, trafficking and consumption at the global level. It is found in various forms, such

as herbal cannabis²², cannabis resin and cannabis oil. Cannabis is produced all over the world. Cannabis is trafficked worldwide, using various modes of transport and routes. The effects on human health remain a worrying situation. Organised crime groups involved in cannabis trafficking (including wholesale distribution), and production (including indoor cultivation), gain enormous proceeds estimated to run into billions of Euros. Indoor cultivation is very sophisticated and highly specialised techniques and equipment is being used. The high quality cannabis and the equipment and production processes (know-how) are being exported from the European Union to many parts in the world.

Cannabis grows wild in many parts of the world and is fairly easy to cultivate. It does not require expert skills, sophisticated equipment or scarce materials. Thus, cannabis can be produced all over the world. When the climate is mild enough, cannabis can be cultivated outdoors. With the modern technology it can also be cultivated indoors.

Global UNODC (2009) estimates (though with a high level of uncertainty in estimating cultivation) of cannabis resin production range from 2,200 to 9,900 tons, spread over 60-70 countries. Morocco remains the main source country for cannabis resin, supplying Europe and North Africa. In addition, other countries e.g. Afghanistan are becoming more important. Production of cannabis resin nowadays is very limited within the European Union.

Estimates on cannabis herb production range from 13,300 to 66,100 tons, spread over 120 countries. Most herbal cannabis is produced in America and Africa, followed by Asia and Europe. Albania is a major source country of herbal cannabis in South-East Europe.

Within the European Union, the production of herbal cannabis takes place both outdoor and indoor. Outdoor plantations can easily be hidden in large corn fields or forests, e.g. Indoor cultivation can be found in any location, both in residential and in industrial areas, even on boats. Domestic cultivation of cannabis, often on a large scale and in a professional way, is spreading throughout Europe. Also, the average potency of the hydroponically produced cannabis increases. Within the European Union the number of cannabis nurseries is increasing and their scale and sophistication is noteworthy. The role of the grow shops as facilitators for indoor cannabis cultivation equipment is important. Not only do they provide the necessary materials and practical advice to set up a nursery, sometimes finance the entire set up in exchange for the first or a few harvests. In addition they buy back the harvest and by this they supply the complete chain of the illegal production "industry". By doing this, they contribute to the proliferation of this illegal industry. Furthermore, the distribution of materials and expertise is spread Europe wide. These observations are similar to those seen in the field of illicit synthetic drug production. Some of the equipment encountered can be used for both production processes and some criminals are active in both fields. Equipment and production methods found in cultivation sites can therefore be used for comparison to identify links between cultivation sites and provide for information to identify organised crime groups. Also alliances between organisations, exchange of end products or combined trafficking are not uncommon.

Member States have witnessed a significant raise in the number of indoor cannabis nurseries and in trafficking of herbal cannabis within the EU in recent years, even though Member States increased the efforts put in the fight against cannabis cultivation.

²² In many countries, herbal cannabis and cannabis resin are known as marijuana and hashish (or just hash) respectively. Street terms for cannabis/cannabis resin include bhang, charas, pot, dope, ganja, hemp, weed, nederwiet, blow, gras and many others (source EMCDDA).

An expansion of indoor cannabis cultivation is also reported, often involving South East Asians, partially linked with exploitation of victims of human trafficking.

The use of security measures such as booby traps, camera observation and mobile alarm-systems indicates the benefits at stake. These measures are primarily taken as deterrent towards other criminal organisations, to avoid theft of the harvest. In Member States specialised rip-groups have raided plantations after harvesting, sometimes in an extremely violent way.

The cannabis market is the largest illicit drug market so far. Drug seizures regularly reveal mixed loads where cannabis is sometimes trafficked together with cocaine, heroin and/or synthetic drugs.

Cannabis resin originating mostly from Africa, e.g. Morocco usually enters the European continent via the Iberian Peninsula and is often transported within the European Union for further distribution mainly by land. Some large cannabis resin seizures take place in harbours revealing concealments in sea freight consignments arriving directly from northern Africa.

Organised Crime groups from source countries involved in cannabis wholesale trafficking do have residencies in different EU countries e.g. Belgium, France, Germany, Greece, Italy, The Netherlands, Portugal, Spain and the United Kingdom. These groups and OC groups in the secondary distribution are often involved in poly drug trafficking and cooperate in a horizontal way. However, violence between Organised Crime groups involved in cannabis trafficking is increasing and causing several deaths.

Often, cannabis slabs contain logos, handwritten remarks or imprints, which can be compared with each other to support identification of responsible organised crime groups.

Cannabis resin produced in Afghanistan and Pakistan is an increasing threat and should be considered appropriately.

One of the pulling factors for cannabis trafficking is the presence of coffee shops. The current debate on these coffee shops in particular limitation of their number may diminish its attractiveness. Furthermore, the proliferation of indoor cultivation of cannabis herb within the European Union may partially substitute imported resin and thus lead to a decrease in resin trafficking towards the European Union. In this respect it is noteworthy to mention quality and price differences which are appealing for Organised Crime.

Trafficking in cannabis herb within the European Union is mostly intra-regional. However, ethnic Albanian criminal groups play a significant role in supplying South East Europe with herbal cannabis. In addition, Europe also imports significant amounts of cannabis from other regions, mainly in sea freight (containers) from Africa, the Americas and Asia.

2.3. Supply or input of the data to be stored

Member States, participating in the Focal point as well as Third Parties associated to it are listed in the tables below. This table will be kept up to date by the Focal Point Team Manager and will be used as the basis for reporting any amendments of the Joint Supervisory Body (JSB).

	Participating MS	Date of joining
	Austria	
x	Belgium	08/01/2010
x	Bulgaria	04/01/2010
x	Cyprus	13/01/2010
x	Czech Republic	08/01/2010
x	Denmark	13/01/2010
	Estonia	
x	France	07/01/2010
x	Finland	08/01/2010
x	Germany	08/01/2010
x	Greece	13/01/2010
x	Hungary	08/01/2010
x	Ireland	12/01/2010
x	Italy	18/12/2009
x	Latvia	12/01/2010
	Lithuania	
	Luxembourg	
	Malta	
x	The Netherlands	08/01/2010
x	Poland	20/10/2010
x	Portugal	08/01/2010
x	Romania	14/01/2010
x	Slovak Republic	07/01/2010
	Slovenia	
x	Spain	28/12/2009
x	Sweden	07/01/2010
x	United Kingdom	08/12/2009
	Associated Third State or organisation	Date of association
	Australia	
	Canada	
	Croatia	
x	Eurojust	06/07/2011
	Iceland	
	Interpol	
	Monaco	
x	Norway	01/11/2011
	Switzerland	
	USA	

2.4. Groups of persons and nature of the data to be stored and sensitive personal data

When the data in this table concerns witnesses, victims, informants and law enforcement officers, it will be stored as necessary, provided there is reason to assume that they are required for the analysis of such person’s role as witnesses, victim and informants.

General	Specific	Suspects and convicted persons	Potential criminal	Contacts and associates	Witnesses	Victims	Informants	Law enforcement officer
Personal details:	Present and former surnames	x	x	x		x		
	Present and former forenames	x	x	x		x		
	Maiden name	x	x	x		x		
	Father’s name (where necessary for the purpose of identification)	x	x	x		x		
	Mother’s name (where necessary for the purpose of identification)	x	x	x		x		
	Sex	x	x	x		x		
	Date of birth	x	x	x		x		
	Place of birth	x	x	x		x		
	Nationality	x	x	x		x		
	Marital status	x	x	x		x		
	Alias	x	x	x		x		
	Nickname	x	x	x		x		
	Assumed or false name	x	x	x		x		
	Present and former residence and/or domicile	x	x	x		x		
Physical appearance:	Physical description	x	x	x		x		
	Distinguishing features (marks/scars/ tattoos etc.)	x	x	x		x		
Identification means:	Identity documents	x	x	x		x		
	National identity card/passport numbers	x	x	x		x		
	National identification numbers, if applicable	x	x	x		x		

EUROPOL Unclassified – Basic Protection Level

General	Specific	Suspects and convicted persons	Potential criminal	Contacts and associates	Witnesses	Victims	Informants	Law enforcement officer
	Visual images and other information on appearance	x	x					
	Forensic identification information such as fingerprints, DNA evaluation results (to the extent necessary for identification purposes and without information characterising personality), voice profile, blood group, dental information	x	x	x				
Occupation and skills:	Present employment and occupation	x	x	x				
	Former employment and occupation	x	x	x				
	Education (school/university/professional)	x	x	x				
	Qualifications	x	x	x				
	Skills and other fields of knowledge (language/other)	x	x	x				
Economic and financial information:	Financial data (bank accounts and codes, credit cards etc.)	x	x	x				
	Cash assets	x	x	x				
	Share holdings/other assets	x	x	x				
	Property data	x	x	x				
	Links with companies	x	x	x				
	Bank and credit contacts	x	x	x				
	Tax position	x	x	x				
	Other information revealing a person's management of their financial affairs	x	x	x				
Behavioural data:	Lifestyle (such as living above means) and routine	x	x	x				
	Movements	x	x	x				
	Places frequented	x	x	x				
	Weapons and other dangerous instruments	x	x	x				
	Danger rating	x	x	x				
	Specific risks such as escape probability, use of double agents, connections with law enforcement personnel	x	x	x				

EUROPOL Unclassified – Basic Protection Level

General	Specific	Suspects and convicted persons	Potential criminal	Contacts and associates	Witnesses	Victims	Informants	Law enforcement officer
	Criminal-related traits and profiles	x	x	x				
	Drug abuse	x	x	x				
Contacts and associates, including type and nature of contact of association		x	x	x				
Means of communication used:	Telephone (static/mobile)	x	x	x				
	Fax	x	x	x				
	Pager	x	x	x				
	Electronic mail	x	x	x				
	Postal addresses	x	x	x				
	Internet connection(s)	x	x	x				
	Other:							
Means of transport used, including information identifying these means of transport (registration numbers):	Vehicles	x	x	x				
	Boats	x	x	x				
	Aircraft	x	x	x				
	Other:							
Information relating to the criminal activities Europol is competent:	Previous convictions	x	x	x				
	Suspected involvement in criminal activities	x	x	x				
	Modi operandi	x	x	x				
	Means which were or may be used to prepare and/or commit crimes	x	x	x				
	Membership of criminal groups/organisations and position in the group/organisation	x	x	x				
	Situation and function in the criminal organisation	x	x	x				
	Geographical range of criminal activities	x	x	x				
	Material gathered in the course of an investigation,	x	x	x				

EUROPOL Unclassified – Basic Protection Level

General	Specific	Suspects and convicted persons	Potential criminal	Contacts and associates	Witnesses	Victims	Informants	Law enforcement officer
	such as video and photographic images							
References to other databases in which information on the person is stored:	Europol	x	x	x				
	Police/customs agencies	x	x	x				
	Other enforcement agencies	x	x	x				
	International organisations	x	x	x				
	Public bodies	x	x	x				
	Private bodies	x	x	x				
Legal persons associated with the economic and financial information and the criminal activities mentioned above:	Designation of the legal person	x	x	x				
	Location	x	x	x				
	Date and place of establishment	x	x	x				
	Administrative registration number	x	x	x				
	Legal form	x	x	x				
	Capital	x	x	x				
	Area of activity	x	x	x				
	National and international subsidiaries	x	x	x				
	Directors	x	x	x				
Links with banks	x	x	x					
Crime-related information provided by or through such persons, including information on their relationship with other persons, where necessary, to identify suspects and convicted persons		■	■	■			■	■
Weather anonymity is to be guaranteed		■	■	■				■

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General	Specific	Suspects and convicted persons	Potential criminal	Contacts and associates	Witnesses	Victims	Informants	Law enforcement officer
Weather protection is to guaranteed and by whom								
Weather participation in court hearing is possible								
Victim identification data								
Reason for victimisation								
Damage	Physical							
	Financial							
	Psychological							
	Other:							
Coded personal details								
Type of information supplied								
New identity								
Negative experiences								
Rewards (financial/favours)								

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If sensitive categories of data as listed in the table below relate to suspects, convicted and potential criminals these may be included where they are **strictly necessary** for the purpose of the Focal Point. Where these sensitive categories relate to witnesses, victims, contacts and associates, informants and law enforcement officers, in addition to being strictly necessary, **specific grounds for inclusion** of such data must be adduced. Such data shall be deleted when they are no longer necessary for the purposes for which they were stored.

Sensitive category of data	Suspects and convicted persons	Potential criminal	Contacts and associates	Witnesses	Victims	Informants	Law enforcement officer	Strictly necessary because:	specific grounds for inclusion:
Racial or ethnic origin	x	x	X		x			Presence of ethnically distinct Organised Crime Groups and victim groups. Commercial cannabis cultivation in many Member States is strongly associated with South East Asian groups (e.g. Vietnamese/Chinese). In relation to cannabis resin trafficking, ethnically distinct OCG also play a considerable role, e.g. Moroccan, Pakistani, Afghan, Kurds/Turkish	
Political opinions									
Religious or philosophical beliefs									
Trade union membership									
Health or sex life									

2.5. Embedded Target Groups

The Focal Point supports the below described embedded Target Group(s). The groups of persons and the nature of the data to be stored including sensitive personal data are as defined in this Annex.

Target Groups within a Focal Point do not necessarily comprise all members of this Focal Point but potentially only a selection of those which are directly affected by the underlying criminal investigation as specified below.

Nr	Target Group	Description	AWF Members and associated Third Parties, participating in this Target Group	
1	Target Group (TG) Cannabis wholesale trafficking	The purpose of this TG is to support the competent authorities of the Member States as mentioned in Article 3 of the Europol Council Decision, in preventing and combating the forms of criminality within Europol's competence associated with the illicit activities of criminal organisations involved in unlawful wholesale cannabis trafficking as well as other related criminal activities uncovered in the course of investigations into these groups, which includes e.g. money laundering activities.		
				Austria
				Belgium
			X	Bulgaria
			X	Cyprus
			X	Czech Republic
				Denmark
				Estonia
			X	France
			X	Finland
				Germany
			X	Greece
			X	Hungary
				Ireland
			X	Italy
			X	Latvia
				Lithuania
				Luxembourg
				Malta
				The Netherlands
				Poland
			X	Portugal
			X	Romania
				Slovak Republic
				Slovenia

EUROPOL Unclassified – Basic Protection Level

			X	TGain	
			X	Sweden	
			X	United Kingdom	
2	Target Group Cannabis cultivation/production	The purpose of this TG is to support the competent authorities of the Member States as mentioned in Article 3 of the Europol Council Decision, in preventing and combating the forms of criminality within Europol's competence associated with the illicit activities of criminal organisations involved in unlawful cannabis cultivation/production as well as other related criminal activities uncovered in the course of investigations into these groups, which includes e.g. money laundering activities.		Austria	
				Belgium	
			X	Bulgaria	
				Cyprus	
			X	Czech Republic	
				Denmark	
				Estonia	
			X	France	
				Finland	
			X	Germany	
			X	Greece	
			X	Hungary	
				Ireland	
			X	Italy	
			X	Latvia	
				Lithuania	
				Luxembourg	
				Malta	
			X	The Netherlands	
				Poland	
			X	Portugal	
			X	Romania	
			X	Slovak Republic	
	Slovenia				
X	TGain				
	Sweden				
X	United Kingdom				
3	Target Group "South East Asian OC groups involved in cannabis production"	The purpose of this TG is to support the competent authorities of the Member States as mentioned in Article 3 of the Europol Council Decision, in preventing and combating the forms of criminality within Europol's competence associated with the illicit activities of criminal organisations involved in unlawful cannabis		Austria	
				Belgium	
			X	Bulgaria	
				Cyprus	
			X	Czech Republic	
	Denmark				

EUROPOL Unclassified – Basic Protection Level

		cultivation/production as well as other related criminal activities uncovered in the course of investigations into these groups, which may include e.g. money laundering, labour exploitation, illegal immigration		Estonia	
			X	France	
				Finland	
			X	Germany	
			X	Greece	
			X	Hungary	
				Ireland	
			X	Italy	
				Latvia	
				Lithuania	
				Luxembourg	
				Malta	
			X	The Netherlands	
				Poland	
			X	Portugal	
				Romania	
			X	Slovak Republic	
				Slovenia	
			X	TGain	
				Sweden	
			X	United Kingdom	

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4	Target Group European OC groups involved in cannabis production"	The purpose of this TG is to support the competent authorities of the Member States as mentioned in Article 3 of the Europol Council Decision, in preventing and combating the forms of criminality within Europol's competence associated with the illicit activities of criminal organisations involved in unlawful cannabis cultivation/production as well as other related criminal activities uncovered in the course of investigations into these groups, which includes e.g. money laundering activities.		Austria	
				Belgium	
			X	Bulgaria	
				Cyprus	
			X	Czech Republic	
				Denmark	
				Estonia	
			X	France	
				Finland	
			X	Germany	
			X	Greece	
				Hungary	
				Ireland	
			X	Italy	
			X	Latvia	
				Lithuania	
				Luxembourg	
				Malta	
			X	The Netherlands	
				Poland	
			X	Portugal	
				Romania	
			X	Slovak Republic	
				Slovenia	
X	TGain				
	Sweden				
	United Kingdom				

Annex 3: Focal Point GNST RESOURCE - Description

3.1. Specific purpose

Focal Point GNST RESOURCE has a thematic angle and focuses on analysis of a **general nature** and **strategic type** in the sense of Article 14(4) first subparagraph ECD regarding serious and organised crime as referred to in chapter 2 of this opening order.

The purpose of processing operations within Focal Point GNST RESOURCE is to determine the scale, significance and consequences of so far non-prioritised criminal phenomena as well as the ability of Member States to contribute related information and intelligence in order to ensure responsible, meaningful and transparent **resource** allocation.

The aim is to identify and prioritise in a transparent and auditable manner those forms of serious and organised crime which appear not to match with any already existing (criminal commodity or group oriented) Focal Point or Target Group but which deserve allocation of significant Europol resources and treatment in a dedicated Focal Point or Target Group.

Processing operations for the purpose of Focal Point GNST RESOURCE are restricted to simple cross-matching operations and informing Member States of the respective links detected in line with the duty to notify (Article 17 ECD). Furthermore, trends and patterns across different commodities and criminal groups can be detected.

Purpose limitation in Focal Point GNST RESOURCE hence does not have the focus on particular criminal groups or commodities linked to serious and organised crime but materialises in explicitly restricted means of analysis of a general nature and strategic type, namely trends and patterns detection and cross-matching with a view to the duty to notify. Against this background only data which cannot already be processed in any already existing (criminal commodity or group oriented) Focal Point or Target Group may be processed in Focal Point GNST RESOURCE.

3.2. Specific context leading to the opening of Focal Point GNST RESOURCE

Europol has limited resources which need to be allocated in a responsible, meaningful and transparent manner in order to effectively prevent and combat serious and organised crime.

According to Article 4(1) ECD Europol's competence shall cover organised crime, terrorism and other forms of serious crime as listed in the Annex affecting two or more Member States in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences.

Reality shows that the organisation can no longer fully accommodate all operational requests covered by its competence even if it is established that they are relevant to Europol's tasks and can be inserted into its computerised systems.

Strategic analysis by means of cross-matching and trends and pattern detection might come to the conclusion that a certain case or pattern rather qualifies for bilateral or multilateral cooperation but should not be taken further by Europol. In times of budget constraints and increasing criminality proper resource management becomes a core requirement in order to effectively prevent and combat serious and organised crime.

3.2.1. Relation to Article 10(4) data processing

Data processing in the context of Focal Point GNST RESOURCE is not to be confused with Article 10(4) ECD data processing.

Article 10(4) ECD serves the purpose of determining the relevance of a contribution to Europol's tasks and whether it can be inserted into one of its systems. Historically, Article 10(4) ECD was introduced with the aim to provide a sound legal basis for existing data back-logs. This also explains the rather short data retention period of only six months.

Focal Point GNST RESOURCE serves a different, already analytical purpose to identify and prioritise in a transparent and auditable manner those forms of serious and organised crime which appear not to match with any already existing (criminal commodity or group oriented) Focal Point or Target Group but which deserve allocation of significant Europol resources.

In other words: The relevance to Europol's tasks and whether the data can be inserted is already established. What is not yet clear is whether the respective contribution is relevant to an already ongoing supported investigation and/or whether it potentially forms part of a new trend or pattern which deserves treatment in a dedicated Focal Point or Target Group.

While the relevance of a contribution to Europol's tasks can be established in relatively short time, the detection of a link to an ongoing investigation or an emerging trend or pattern will take longer.

The identification of links to ongoing investigations as well as the detection of emerging new trends and patterns forms an integral part of Europol's strategic analysis task serving the purpose of responsible, meaningful and transparent resource allocation.

Article 10(4) ECD data processing logically takes place prior to analysis. It involves the following considerations:

- **Legal check:** Is Europol is legally allowed to deal with an operational request? This question touches upon elements such as: was the information lawfully obtained, does it match with Europol's competence, in particular, is it related to organised crime, terrorism or other forms of serious crime as listed in the Annex to the ECD and are two or more Member States affected.
- **Relevance check:** Is the request relevant to Europol's tasks? It has to be determined whether the request can be linked to one or more tasks as defined in an enumerative manner in Article 5 ECD.
- **Insertion check:** Can information be inserted into one of Europol's data processing systems and if so, into which system: EIS, an AWF or any new system processing personal data established in accordance with Article 10(2) and (3) ECD?

3.2.2. Criteria for acceptance of data into Focal Point GNST RESOURCE

Focal Point GNST RESOURCE will be used to process information which has passed the Art 10(4) ECD assessment as described above but cannot be linked to any existing operational priority as reflected in already existing (criminal commodity or group oriented) Focal Points or Target Groups.

In order to be accepted into Focal Point GNST RESOURCE at least the following elements will be taken into account collectively:

- Is the information linked to serious and organised crime?
- Does the information fit into any of the already existing (criminal commodity or group oriented) Focal Points or Target Groups?
- Is there already a degree of commitment existing amongst the MS?
- Has the case potential to develop into an international police operation?

The processing of personal data related to persons regarding whom there are factual indications or reasonable grounds under the national law of the Member State concerned to believe that they will commit criminal offences in respect of which Europol is competent (potential criminals) shall only be processed in Focal Point GNST Resource if strictly necessary for the purpose as specified in chapter 1 of this annex.

3.2.3. *Criteria for transferral of data from Focal Point GNST RESOURCE*

The purpose of processing operations within Focal Point GNST RESOURCE is to determine the scale, significance and consequences of so far non-prioritised criminal phenomena as well as the ability of Member States to contribute related information

The 18 months during which the information can be processed in Focal Point GNST RESOURCE will be used to determine the scale, significance and consequences of so far non-prioritised criminal phenomena as well as the ability of Member States to contribute related information.

During that term Europol might establish that data can be linked to an already existing (criminal commodity or group oriented) Focal Point or Target Group. Subject to compliance with the respective Annex of this Opening Order or a necessary amendment the data would have to be transferred there.

Otherwise, upon expiration of 18 months a new (criminal commodity or group oriented) Focal Point or Target Group would have to be established or the data be deleted.

The criteria to be considered in this context are at least the following:

- Whether the topic concerns a priority on EU level;
- The number of MS affected;
- The volume and quality of the information already exchanged and;
- The existence of sufficient elements (identity of certain suspects; minimal knowledge of the Modus Operandi etc) to organise international police cooperation.

The difference between Focal Point GNST RESOURCE and other Focal Points/Target Groups can be seen from the table below. In both cases contributions will be inserted into the EAS by the Operational Centre which will also provide a “first level reply” consisting of either a cross match report or an answer indicating that no cross match has been established. A difference occurs only after this stage:

Framework	FP GNST RESOURCE	Other FP/TG
Who is in charge of it?	Operational Centre	OD units
Inserted in IBase – DMS	Yes	Yes
Cross checked	Yes	Yes
Operational analysis	No	Yes
Strategic analysis	Partially (trends and patterns detection)	Yes
Retention period	Deletion after 18 months	Review prior to expiry of three years after input

Annex 4: Association of Third Parties with Focal Points

4.1. Precondition

An **operational agreement** exists between the third party and Europol.

4.2. Procedure

- all participants to an FP group (including Europol) shall **unanimously agree** to the association of a third party;
- an **invitation** has to be addressed by Europol to the concerned third party;
- an **association arrangement** must be concluded between Europol and the third party and communicated to the Joint Supervisory Body, which may address comments to the Management Board. When the Project Manager has received the approval from the FP Group, he informs SCCU who will draft the arrangement.

4.3. Rights of the Third Party

Right to attend FP group's meetings.

Right to be informed by Europol of the development of the FP: this information will of course be provided in the first place in the framework of the FP groups meetings. However, third parties have a general right to be informed by Europol, upon request, of the development of the FP to which it is associated. Such information could in some cases be provided by sending to the associated third parties the monthly reports which are issued for several FPs.

Right to receive analysis results concerning them: associated third parties will of course be allowed to receive analysis results. Only analysis results relevant for the third parties should be communicated to them. This reflects the current practice for Member States participating to an FP (i.e. they receive only analysis results that concern them) and it blocks claims to receive all analysis results generated by an FP.

The *dissemination of analysis results to associated third parties experts* is regulated in chapter IV of the ECD. In particular Art. 24 ECD obliges Europol to secure the approval of the 'supplying' Member State before data are disseminated to a third party. This approval can be given by prior consent, in general terms or subject to specific conditions.

Right to further disseminate analysis results: a third party can transmit Europol information only to a MS or another third party which has an operational agreement with Europol. Such dissemination will however be subject to the concerned participants' prior agreement, as well as to the applicable agreement(s).

Right to unilaterally terminate the arrangement: the termination of the arrangement should be possible either on request of the associated third parties or of Europol with the agreement of the participants to the FP group.

4.4. Limitations for the Third Party

Data retrieval from FPs: Art. 14(2) in fine of the ECD, limits the right to retrieve data from FPs to the participants to an FP group, meaning the Member States. Consequently, this right cannot be extended to associated third parties.

'Steering' of the FP development: it is clear that an associated third party should not have the same prerogatives as a participant when it comes to steering the development of the FP. It is however difficult to reflect this in the arrangements themselves. If need be, the third parties' attention could be drawn to the fact that it is merely associated to the FP group, i.e. is not a fully fledged participant.

Secondment of third parties' analysts to participate in the activities of an FP: some cooperation partners have expressed interest in seconding analysts to Europol in order to participate in the development of FPs. Although this 'partnership' could also be in Europol's interest ('free labour', additional expertise) and already takes place with several Member States, it is not foreseen in the association rules, since they can only deal with the association of TPs to "the activities of an Analysis group", and not with their association to the analysis work itself.

4.5. Additional safeguards for the Participants (MS) in an FP

As mentioned above, Art 24, paragraph (1) of the ECD states that whenever Europol intends on forwarding MS data to a Third Party, it can only do so after the agreement of the MS that provided the information to the FP. The MS, participating in an FP, can give a prior consent that may be withdrawn at any time. Whenever a participant in an FP would be reluctant to have its data shared with a third party, it can refuse to give its prior consent.

The advantages of this article are the following:

- Participants can be assured that none of their information will be forwarded to a third party without their explicit approval;
- This means that participants can still send their information to an FP without blocking the dissemination (by using handling code H2) if they want to share it with the other participants in the FP;
- Some participants can decide to give this prior consent so their approval will not have to be asked on every occasion to share their information with a certain third party.

In addition, the third parties must be directly concerned by the FP group and that its association must be in the interest of the Member States. The fulfilment of this condition is not only assessed by the FP group participants when deciding whether or not to ask Europol to invite a third party to be associated to an FP group. This condition also implies that an evaluation of the commitment of the associated third party can be undertaken. If this evaluation would reveal that the association is not (any longer) in the interest of the participants, the association can be terminated.

As mentioned above, the termination of the arrangement is possible either on request of the associated third parties or of Europol with the agreement of the participants to the FP group. Should such an agreement not be reached, the arrangement could be terminated on request of one of the participants. This mechanism will allow putting an end to the association of a third party which would for instance not contribute sufficient data to an FP.