"A" ITEM NOTE

from: Coreper
to: Council
Subject: Draft Council conclusions on extradition

1. At its meeting on 7 and 8 November 1995, the K4 Committee recorded its agreement to the Presidency proposal to submit a draft declaration on extradition to the Council.

2. To that end the Presidency submitted the draft declaration set out in 11393/95 JUSTPEN 154 which was examined at the meeting of the Working Party on Extradition on 14 and 15 November 1995. Following its discussion, the Working Party produced the version in 11393/1/95 JUSTPEN 154 REV 1 + COR 1 which it submitted to Coreper.

3. Having recorded its agreement in principle at its meeting on 14 and 15 November 1995, Coreper is submitting to the Council for adoption as an "A" item:

- the draft conclusions in Annex I;
- the draft Council statement for the minutes in Annex II.
DRAFT COUNCIL DECLARATION ON EXTRADITION

THE COUNCIL OF THE EUROPEAN UNION,

NOTES that:

- in spite of the complexity of the matter and the difficulty of formulating new provisions in relation to the European Convention of 1957, progress has been made;

- agreement has been reached on the provisions dealing with extraditable offences, fiscal offences, lapse of time and amnesty;

- it is apparent that most delegations agree on the principles which are to govern extradition of nationals and waiver of the rule of speciality in certain cases;

- other fundamental questions are now under discussion, such as re-extradition, the possibility of excluding the political nature of the offence as grounds for refusing extradition between Member States and relaxation of the principle of dual criminality for conspiracy and associations to commit offences;

CONSiders:

- that it is important that discussions on a Convention on the improvement of extradition between the Member States of the European Union continue with a view to the earliest possible conclusion;
that, to this end, the discussions should bear the following guidelines in mind:

- discussion of provisions on which all delegations agree should not be reopened;

- examination of other provisions to which the majority of delegations have agreed, should continue, giving more flexible consideration to the technical aspects outstanding, in particular the possibility of reservations, valid for a limited period, where permissible;

- account should be taken of the significance for combating organized crime of the possibility of derogating from the dual criminality rule;

- a solution should be sought to the question of refusal to extradite on the grounds of the political nature of the offence, in consideration of Member States' confidence in each other's legal orders and judicial systems;

- procedural aspects of extradition under the draft Convention should also be examined.

ALSO CALLS ON:

- the Member States to make every effort to ratify as soon as possible the Convention on simplified extradition procedures between the Member States of the European Union, signed on 10 March 1995, in accordance with their constitutional requirements.
COUNCIL STATEMENT

The Council considers that discussion should not be reopened on provisions on which all delegations agree, unless glaring contradictions with regard to those provisions are noticed in the course of future proceedings.