NOTE

from: Netherlands delegation

to: Article K.4 Committee

Subject: Provisional work programme for Steering Group III (judicial cooperation in criminal and civil matters) for the period from 1 January to 30 June 1997

The work programme for Steering Group III falls into two parts: criminal law and civil law.

A. JUDICIAL COOPERATION IN CRIMINAL MATTERS

The Netherlands Presidency is placing the emphasis on continuing with activities carried out during the Irish Presidency which are included in the multiannual work programme approved by the Council (9043/96 JAI 46).

Particular attention will be paid to combating fraud and corruption and to improving mutual judicial assistance in criminal matters. Seven meetings each are therefore scheduled for the Working Party on Criminal and Community Law and the Working Party on Mutual Assistance in Criminal Matters.
The Working Party on Extradition will also meet once or twice to put the finishing touches to the explanatory report on the Extradition Convention of 27 September 1996. Prospects for completion of the draft Convention on the Enforcement of Driving Disqualifications will be explored by the Presidency in consultations and proceedings will, if possible, be continued in the Working Party on Disqualification from Driving.

In relations with the countries of Central and Eastern Europe, in accordance with the action programme, an exercise is to be carried out to chart practical problems in judicial cooperation in combating trafficking in illicit drugs, human beings, stolen vehicles and works of art.

The aim of proceedings in the Working Party on Criminal and Community Law will be to:

1. complete the 2nd Protocol to the Convention on the Protection of the European Communities’ Financial Interests (criminal liability of legal persons). The issues still outstanding are, in a nutshell, criteria for liability of legal persons for acts of employees, the extent to which money laundering is made a criminal offence and the penalties carried by it, and the implications of cooperation between Member States and the Commission, for instance, in the area of protection of privacy;

2. completion of the explanatory report on the 1st Protocol to the Convention on the Protection of the European Communities’ Financial Interests (corruption);

3. the drawing up and possible completion of the explanatory report on the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union.

As this explanatory report will go over much the same ground as the explanatory report on the 1st Protocol, progress here will depend upon the progress made with the explanatory report on the 1st Protocol.
The aim of proceedings in the Working Party on Mutual Assistance in Criminal Matters will be to:

1. form an overall picture of the planned content of the supplementary Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union.

The objective is a mutual assistance convention which meets present-day needs and hence reflects crime trends and which as far as possible results in the simplification of existing forms of mutual assistance. It is therefore of prime importance to form an overall picture of the content of the supplementary Convention. There is still a need in this connection for discussion of judicial cooperation with regard to the following: cross-border use of special investigation techniques, restitution of property seized in another Member State to the person entitled to recover it, interception of satellite telecommunications, offences involving dissemination on the Internet, and the need established by the Working Party on Criminal and Community Law for cooperation between judicial and administrative authorities.

Heed will also have to be paid to avoiding unnecessary duplication of arrangements under the EU and at the Council of Europe.

2. Assessment of existing judicial cooperation conventions

Consideration will be given, with the help of a brief questionnaire, to how the number of ratifications of two instruments valued by the Council can be increased. These are the Agreement between the Member States of the European Communities on the Simplification and Modernization of Methods of Transmitting Extradition Requests (San Sebastián, 26 May 1989), with regard to ratification of which the Council made a statement when the Extradition Convention was signed, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 8 November 1990).
B. JUDICIAL COOPERATION IN CIVIL MATTERS

The Netherlands Presidency's general starting point for civil law activities under the third pillar is the continuation of those included in the multiannual work programme (9043/96 JAI 46) which have been under discussion during the Irish Presidency.

Emphasis will of course be placed on the continuation of proceedings in the Working Party dealing with the draft Convention on Jurisdiction and the Enforcement of Judgments in Matrimonial Matters (the Brussels II Working Party) and the Working Party dealing with the draft Convention on the Service of Judicial and Extrajudicial Documents (the Working Party on Simplification of Document Transmission). It is not the Presidency’s intention to expand the number of Working Parties so as to be able to tackle any new topic. Should either of those two Working Parties complete its proceedings during the Presidency, proposals would promptly be put forward for a new Working Party to consider one of the other topics in the multiannual programme.

Nine Working Party meetings in all are scheduled for the Brussels II Working Party and the Working Party on Simplification of Document Transmission/a European Enforcement Order; each meeting will last for two days.

Keeping up the momentum from the latter months of the Irish Presidency, the Brussels II Working Party will be able to continue work on the completion of that Convention. Consideration will need to be given in particular to arrangements for recognition and enforcement of divorce court judgments concerning custody of children.

Working Party on Simplification of Document Transmission

In the light of the situation as it stands, the Presidency will consider, by holding consultations and in other ways, how the matter is to be dealt with.
The multiannual programme (9043/96 JAI 46) also includes among civil law activities under the third pillar the topic of a European enforcement order (EEO) with a reference to consideration of the desirability of drawing up a convention. Such consideration is well under way. In this connection the European Commission has sent out a questionnaire on the matter to various interest groups (of practitioners) in the Member States (e.g. magistrates, lawyers and law officers) and Finland has arranged for an EEO seminar in March 1997. The Netherlands Presidency plans to set up a new EEO Working Party in April 1997; in the light of findings from the questionnaire replies and on the basis of the outcome of the seminar, this will engage in general discussion of the desirability of an EEO and the possible form to be taken by one. Proceedings will be aimed at simplifying enforcement procedures but not, as the Netherlands Presidency wishes to state most emphatically, at harmonization of the relevant procedural law.