

# Official Journal

## of the European Communities

ISSN 0378-6978

L 322

Volume 39

12 December 1996

English edition

## Legislation

### Contents

#### *Acts adopted pursuant to Title V of the Treaty on European Union*

96/697/CFSP:

- ★ Common position of 2 December 1996 defined by the Council on the basis of Article J.2 of the Treaty on European Union, on Cuba ..... 1

#### *Acts adopted pursuant to Title VI of the Treaty on European Union*

96/698/JHA:

- ★ Joint action of 29 November 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on cooperation between customs authorities and business organizations in combating drug trafficking ..... 3

96/699/JHA:

- ★ Joint action of 29 November 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning the exchange of information on the chemical profiling of drugs to facilitate improved cooperation between Member States in combating illicit drug trafficking ..... 5

96/700/JHA:

- ★ Joint action of 29 November 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, establishing an incentive and exchange programme for persons responsible for combating trade in human beings and the sexual exploitation of children ..... 7

*(Acts adopted pursuant to Title V of the Treaty on European Union)*

## COMMON POSITION

of 2 December 1996

defined by the Council on the basis of Article J.2 of the Treaty on European Union, on  
Cuba

(96/697/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the European Union and,  
in particular, Article J.2 thereof,

HAS DEFINED THE FOLLOWING COMMON POSITION:

1. The objective of the European Union in its relations with Cuba is to encourage a process of transition to pluralist democracy and respect for human rights and fundamental freedoms, as well as a sustainable recovery and improvement in the living standards of the Cuban people. A transition would most likely be peaceful if the present regime were itself to initiate or permit such a process. It is not European Union policy to try to bring about change by coercive measures with the effect of increasing the economic hardship of the Cuban people.
2. The European Union acknowledges the tentative economic opening undertaken in Cuba to date. It is its firm wish to be Cuba's partner in the progressive and irreversible opening of the Cuban economy. The European Union considers that full cooperation with Cuba will depend upon improvements in human rights and political freedom, as indicated by the European Council in Florence.
3. In order to facilitate peaceful change in Cuba, the European Union
  - (a) will intensify the present dialogue with the Cuban authorities and with all sectors of Cuban society in order to promote respect for human rights and real progress towards pluralist democracy;
  - (b) will seek out opportunities — even more actively than heretofore — to remind the Cuban authorities, both publicly and privately, of fundamental responsibilities regarding human rights, in particular freedom of speech and association;
  - (c) will encourage the reform of internal legislation concerning political and civil rights, including the Cuban criminal code, and, consequently, the abolition of all political offences, the release of all political prisoners and the ending of the harassment and punishment of dissidents;
  - (d) will evaluate developments in Cuban internal and foreign policies according to the same standards that apply to European Union relations with other countries, in particular the ratification and observance of international human rights conventions;
  - (e) will remain willing in the meantime, through the Member States, to provide *ad hoc* humanitarian aid, subject to prior agreement regarding distribution; currently applicable measures to ensure distribution through non-governmental organizations, the churches and international organizations will be maintained and, where appropriate, reinforced. It is noted that the Commission is proceeding on the same basis;
  - (f) will remain willing, through the Member States, also to carry out focused economic cooperation actions in support of the economic opening being implemented. It is noted that the Commission is proceeding on the same basis.
4. As the Cuban authorities make progress towards democracy, the European Union will lend its support to that process and examine the appropriate use of

the means at its disposal for that purpose, including:

- the intensification of a constructive, result-oriented political dialogue between the European Union and Cuba,
- the intensification of cooperation and, in particular, economic cooperation,
- the deepening of the dialogue with the Cuban authorities, through the appropriate instances, in order to explore further the possibilities for future negotiation of a Cooperation Agreement with Cuba, on the basis of the relevant conclusions of the European Councils in Madrid and Florence.

5. The implementation of this common position will be monitored by the Council. An evaluation of this common position will be undertaken after six months.
6. This common position shall take effect on 2 December 1996.
7. This common position shall be published in the Official Journal.

Done at Brussels, 2 December 1996.

*For the Council*

*The President*

R. QUINN

---

*(Acts adopted pursuant to Title VI of the Treaty on European Union)*

## JOINT ACTION

of 29 November 1996

adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on cooperation between customs authorities and business organizations in combating drug trafficking

(96/698/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular, Article K.3 (2) (b) thereof,

Having regard to the initiative of Ireland,

Having regard to the report of the Expert Group on Drugs, as approved by the European Council in Madrid in 1995,

Recognizing that facilities and services of legitimate business organizations can be surreptitiously used by illegal drug traffickers,

Whereas the highest degree of cooperation is essential between customs authorities and business organizations in combating drug trafficking;

Whereas support for the strengthening of cooperation between customs authorities and business organizations in the fight against drug trafficking was expressed by the Group of Seven (G7) at its summit meetings in London (1991) and Munich (1992);

Whereas UN Economic and Social Council Resolutions 1993/41 of 27 July 1993 and 1995/18 of 24 July 1995 endorsed the use of Memoranda of Understanding as a practical means of obtaining tangible results in drug enforcement, whilst maintaining the momentum of trade facilitation;

Whereas an action plan to develop systematically Memoranda of Understanding in the customs field was adopted by the Council of the World Customs Organization (WCO),

Noting that the Memoranda of Understanding programme initiated by the WCO has been successful worldwide in consolidating cooperation between customs authorities and business organizations;

Further noting that some Member States of the European Union have already embarked on national Memoranda of Understanding programmes with business organizations in relation to both drug trafficking and other customs offences;

Aware that the expansion of these programmes to all Member States and to a greater number of business organizations can bring further enforcement advantages,

HAS ADOPTED THE FOLLOWING JOINT ACTION:

### Article 1

In order to consolidate the already cooperative relationship between the customs authorities of the Member States and business organizations operating in the European Union in combating drug trafficking, Member States shall establish or further develop Memoranda of Understanding programmes at national level under the guidelines laid down in this joint action and shall invite participation in such programmes.

### Article 2

Memoranda of Understanding between customs authorities and business organizations may contain, but need not be confined to, provisions in respect of the following:

— the exchange of contact names in customs and in the signatory organization,

- the provision to customs, by the signatory, of advance cargo or passenger data as appropriate,
- access by customs to the signatory's information systems,
- assessment by customs of the signatory's security procedures,
- development and implementation of plans to improve such security,
- checking of newly recruited staff by the signatory,
- provision by customs of training for the signatory's staff.

#### *Article 3*

Customs authorities shall periodically review the operation of national Memoranda of Understanding programmes and shall also review the implementation of individual Memoranda of Understanding and, in agreement with signatories, adapt them as necessary to ensure maximum effectiveness.

#### *Article 4*

Member States shall notify the Council Secretariat of the measures they have taken to implement the provisions of

this joint action one year after its entry into force and thereafter as requested by the Presidency.

#### *Article 5*

Member States may at their discretion extend the scope of Memoranda of Understanding established under the programmes referred to in Article 1 to cover other offences for which the customs authorities are competent in addition to drug trafficking.

#### *Article 6*

This joint action shall be published in the Official Journal.

It shall enter into force on the day of its publication.

Done at Brussels, 29 November 1996.

*For the Council*

*The President*

N. OWEN

---

## JOINT ACTION

of 29 November 1996

adopted by the Council on the basis of Article K.3 of the Treaty on European Union,  
concerning the exchange of information on the chemical profiling of drugs to facilitate  
improved cooperation between Member States in combating illicit drug trafficking

(96/699/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Considering that the Europol Drugs Unit has developed special competence in ballistic profiling of seized drugs;

Having regard to the Treaty on European Union, and in particular Article K.3 (2) (b) thereof,

Whereas the sharing of information envisaged by this joint action is not intended to replace or affect any bilateral or multilateral arrangements concerning the chemical profiling of drugs, or to require the setting up of any new structures within the Council;

Having regard to the initiative of Ireland,

Recalling the report of the experts on drugs approved by the Madrid European Council on 15 and 16 December 1995 and, specifically, the action proposal therein relating to the chemical profiling of drugs;

Recognizing the benefits of enhancing cooperation between Member States' forensic science laboratories,

Bearing in mind the conclusions of the seminar in Dublin on 30 July 1996 on the chemical profiling of drugs, which involves the qualitative and quantitative determination of most components in a sample of a seized drug;

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

Whereas it is in the common interest of the Member States to identify the trends of illicit drug production and manufacture and to map the supply lines of controlled drugs;

This joint action is intended to establish a more cohesive mechanism for the transmission and dissemination of the results of drug profiling in Member States. It envisages the exchange of information relating to the chemical profiling of cocaine, heroin, LSD, amphetamines and their ecstasy-type derivatives MDA, MDMA and MDEA, and such other drugs or psychotropic substances as Member States see fit.

Whereas it is in the same common interest to improve information and intelligence for law enforcement purposes on the sources and routes of illicit drug trafficking;

*Article 2*

Whereas it is in the said common interest to maximize evidential material relating to drug seizures, for judicial services of Member States;

The Europol Drugs Unit is hereby designated as the authority to which information from Member States concerning chemical profiling is to be transmitted.

Considering that forensic science laboratories of the Member States have developed specialized competences, skills and expertise in the chemical profiling of drugs, which is of significant benefit to law enforcement agencies in individual Member States in the fight against illicit drug production and trafficking;

*Article 3*

Considering that the sharing of this information would be an important contribution to the European Union's efforts in tackling illicit drug production and trafficking;

The information supplied to the Europol Drugs Unit shall take the following format:

- (i) analysis of drugs in tablet form:

(a) physical dimensions of the sample — size, weight, colour;

*Article 4*

The Europol Drugs Unit shall transmit to all Member States the information supplied under Article 3.

(b) designs and markings — type and position of logo;

(c) type and quantity of the main drug found in the sample;

*Article 5*

This joint action shall enter into force on the day of its adoption.

(d) type and quantity of all other component substances discovered during analysis;

(e) picture of the sample;

*Article 6*

(f) case registration (identification) number;

This joint action shall be published in the Official Journal.

(ii) analysis of drugs not in tablet form:

(a) type and quantity of the main drug found in the sample;

Done at Brussels, 29 November 1996.

(b) type and quantity of all other component substances discovered during analysis;

*For the Council*

*The President*

(c) case registration (identification) number.

N. OWEN

## JOINT ACTION

of 29 November 1996

adopted by the Council on the basis of Article K.3 of the Treaty on European Union,  
establishing an incentive and exchange programme for persons responsible for combating trade  
in human beings and the sexual exploitation of children

(96/700/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in  
particular Articles K.3 (2) (b) and K.8 (2) thereof,

Having regard to the initiative by the Kingdom of  
Belgium,

Whereas it is considered a matter of common interest to  
increase cooperation in the fields of justice and home  
affairs on the combating of trade in human beings and  
the sexual exploitation of children;

Whereas trade in human beings and the sexual  
exploitation of children are serious breaches of  
fundamental individual rights and, in particular, human  
dignity;

Whereas recent developments reveal that trade in human  
beings and the sexual exploitation of children may  
constitute a major form of organized crime the  
proportions of which within the European Union are  
becoming increasingly worrying;

Aware of the need for a coordinated multidisciplinary  
approach to the problem;

Whereas to that end the establishment of a framework  
for training, information, study and exchange actions for  
persons responsible for combating trade in human beings  
and the sexual exploitation of children in all its forms  
will step up and facilitate the fight against trade in  
human beings and the sexual exploitation of children as  
well as improve mutual understanding of Member States'  
legal systems, identify common ground between them,  
and thereby reduce whatever obstacles exist to increased  
cooperation between Member States in this area;

Whereas these objectives may be more efficiently pursued  
at European Union level than by the Member States  
acting individually in view of the specific experience

available in some Member States and of the likely savings  
and cumulative effects of the planned actions;

Whereas this joint action does not affect existing  
procedural rules on international cooperation,

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

1. For the period 1996 to 2000, a programme shall be  
established to develop coordinated initiatives on the  
combating of trade in human beings and the sexual  
exploitation of children, on disappearances of minors and  
on the use of telecommunications facilities for the  
purposes of trade in human beings and the sexual  
exploitation of children.

2. For the purposes of this joint action, 'persons  
responsible for combating trade in human beings and the  
sexual exploitation of children' shall mean the following  
categories of persons inasmuch as they have  
responsibilities in the area concerned: judges, public  
prosecutors, police departments, civil servants, public  
services concerned with immigration and border controls  
and with social and tax legislation, the prevention or  
combating of such phenomena and assisting the victims  
or dealing with the perpetrators.

3. The programme shall provide for measures in the  
following fields:

- training,
- exchange programmes and training courses,
- organization of multidisciplinary meetings and  
seminars,
- studies and research,
- dissemination of information.

*Article 2*

The financial reference amount for implementation of the  
programme for the period 1996 to 2000 shall be ECU  
6,5 million.

The annual appropriations shall be authorized by the budget authority within the limits of the financial perspective.

### Article 3

For training, projects having the following aims may be considered:

- knowledge of other Member States' legal systems, in particular of legislation on trade in human beings and the sexual exploitation of children and of the functioning of judicial proceedings and procedures relating to immigration and border controls and social and tax legislation,
- preparation of specific teaching modules for actions involving training, exchanges and training courses, conferences or seminars organized under this programme,
- incentives to acquire operational knowledge of the languages of the countries of origin of victims of trade in human beings and the sexual exploitation of children.

### Article 4

For exchange programmes and training courses, projects having the following aims may be considered:

- organization of limited-duration courses in public bodies which have been given particular responsibilities in the area concerned,
- organization of visits to public bodies or persons responsible in several other Member States for specific aspects of the problem.

### Article 5

For the organization of meetings, projects having the following aims may be considered:

- organization of bilateral or European conferences on specific aspects of the problem,
- the holding of multidisciplinary conferences.

### Article 6

For studies and research, projects having the following aims may be considered:

- scientific, technical or comparative research on specific aspects of the problem or coordination of research on the matter,

- preliminary analysis of topics chosen for organizing projects under the programme, in particular:

- a study of the advisability and feasibility of centralizing, on a structural basis, information concerning not only missing persons and victims of the trade in human beings and the sexual exploitation of children but also the perpetrators of these crimes, including DNA data and the criminal analysis of such data, taking ethical aspects into account,

- a study of measures to be adopted to prevent the use of telecommunications facilities, including the Internet system, for the purposes of trade in human beings and the sexual exploitation of children,

- exploitation of reports on courses or meetings organized under the programme.

### Article 7

For dissemination of information, projects having the following aims may be considered:

- circulation in writing or by data transmission, of the originals or translations of information notes on law amendments or planned reform,
- dissemination of information on the measures referred to in Articles 3, 4 and 5, on the outcome of the meetings referred to in Article 5 or on the findings of research carried out under Article 6, and their application,
- creation of databases and/or documentation networks storing lists of articles, publications, studies and legislation concerning trade in human beings and the sexual exploitation of children, and in particular the creation of an updated database on the state of relevant legislation and case-law in the Member States.
- production of manuals, for use primarily by police departments, concerning techniques for combating trade in human beings and the sexual exploitation of children.

### Article 8

1. Projects receiving Community financing must be of European interest and involve more than one Member State.

2. Those responsible for the projects may be public or private institutions including, in particular, legal training institutes and institutes for the training of the judiciary as well as bodies whose function is to prevent or combat trade in human beings and the sexual exploitation of children.

3. The projects to be financed shall be subject to a procedure taking into account in particular:

- consistency of topics covered with work undertaken or provided for in Council action programmes coming under judicial cooperation,
- input towards the framing or implementation of instruments provided for in Title VI of the Treaty,
- mutual complementarity between the various projects,
- the range of professions targeted,
- the nature of the institution responsible,
- the operational and practical nature of the measures, in particular regarding the procedures for cooperation in centralizing information on the criminal activities covered by this joint action,
- the degree of preparation of the participants,
- the scope for drawing on results achieved in order to make possible new developments in preventing and combating trade in human beings and the sexual exploitation of children.

4. These projects may involve those responsible in applicant countries with a view to helping them prepare for accession, or in other third countries where it serves the aims of the projects, in particular where they are countries of origin of victims of trade in human beings and the sexual exploitation of children.

5. These projects may also involve the staff of public or private bodies whose function is to prevent or combat trade in human beings and the sexual exploitation of children, to assist the victims or deal with the perpetrators, and academic and scientific staff, where it serves the aims of the projects.

#### Article 9

Financing decisions and the contracts deriving from them shall provide in particular for follow-up and financial monitoring by the Commission and audit by the Court of Auditors.

#### Article 10

1. All types of expenditure directly attributable to implementation of a measure and incurred during a contractually set period shall be eligible.

2. The rate of financial support from the Community budget may not exceed 80 % of the cost of the measure.

3. Translation and interpreting expenses, data-processing costs and expenditure on durables or consumables shall be taken into consideration only when they constitute a necessary support for carrying out the measure and may be financed only up to a maximum of 50 % of the subsidy, or 80 % where the very nature of the measure makes it indispensable.

4. Expenditure relating to public premises and equipment and to remuneration of officials of State or public bodies may be taken into consideration only in so far as it concerns uses and tasks not linked with a national purpose or function but specifically connected with implementation of this joint action.

#### Article 11

1. The Commission shall be responsible for implementing the measures provided for in this joint action and shall adopt the detailed procedures for applying it, including the eligibility criteria for costs.

2. The Commission shall, with the assistance of experts from the professional circles concerned, establish a draft annual programme for implementing this joint action as regards specific priorities and the allocation of the appropriations available amongst fields of action.

3. The Commission shall each year evaluate the measures for implementing the programme during the previous year.

#### Article 12

1. The Commission shall be assisted by a committee consisting of one representative from each Member State and chaired by a representative of the Commission.

2. The Commission shall submit to the committee the draft annual programme, including a proposal for the distribution of the available appropriations among the fields of action and proposals for implementing rules and for project assessment. The opinion shall be delivered by the committee, acting unanimously, within a period of two months. This period may be reduced by the chairman for reasons of urgency. The chairman shall not vote.

If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw its proposal or submit a proposal to the Council, which shall take a decision unanimously within two months.

*Article 13*

1. From the second financial year onwards, projects for which financing is requested shall be submitted to the Commission for scrutiny by 31 March of the financial year to which they are to be charged.

2. The Commission shall examine the projects submitted to it with the assistance of the experts referred to in Article 11 (2).

3. Where the financing requested is less than ECU 50 000, the representative of the Commission shall submit a draft to the committee referred to in Article 12. The committee, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall deliver its opinion on this draft within a time limit which the chairman may lay down according to the urgency of the matter. The chairman shall not vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

4. Where the financial requested exceeds ECU 50 000, the Commission shall submit to the committee referred to in Article 12 a list of the projects submitted to it under the annual programme. The Commission shall indicate the projects it selects and shall give reasons for its selection. The committee, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall deliver its opinion on the various projects within a period of two months. The chairman shall not vote.

If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project(s) concerned or submit it (them), with any opinion from the committee, to the Council which, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall take a decision within two months.

*Article 14*

1. The measures covered by the programme and financed from the general budget of the Communities shall be managed by the Commission in accordance with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities <sup>(1)</sup>.

2. In the presentation of the proposals for financing referred to in Article 13 and of the evaluations mentioned in Article 11, the Commission shall take into account the principles of sound financial management and in particular of economy and cost-effectiveness referred to in Article 2 of the Financial Regulation.

*Article 15*

The Commission shall report annually to the European Parliament and the Council on the implementation of the programme. The first report shall be forwarded at the end of the 1996 financial year.

*Article 16*

This joint action shall enter into force on the day of its adoption.

It shall apply for a period of five years, at the end of which it may be extended.

*Article 17*

This joint action shall be published in the Official Journal.

Done at Brussels, 29 November 1996.

*For the Council*

*The President*

N. OWEN

---

<sup>(1)</sup> OJ No L 356, 31. 12. 1977, p. 1. Financial Regulation as last amended by Regulation (EC, Euratom, ECSC) No 2335/95 (OJ No L 240, 7. 10. 1995, p. 12).