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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 6 May 2002**

**8574/02**

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**COPEN 30**

## **OUTCOME OF PROCEEDINGS**

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of : Working Party on Cooperation in Criminal Matters

on : 18 March 2002

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Subject : Outcome of proceedings of Working Party on Cooperation in Criminal Matters of  
18 March 2002

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### **1. Adoption of the agenda**

The agenda set out in telex 1282 of 12 March 2002 was adopted.

### **2. Coordination between the Member States in view of the upcoming meeting of the Council of Europe Multidisciplinary Group on International Action Against Terrorism (GMT) (Strasbourg, 8-9 April 2002)**

- **revision of Articles 1-4 and 13 of the 1977 European Convention on the suppression of terrorism**
- **other questions**

The Working Party on Cooperation in Criminal Matters examined at its meeting on 18 March Articles 1 to 4, and Article 13 of the 1977 European Convention on the suppression of terrorism. The discussion took place on the basis of a proposal tabled by the Presidency and a

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document from the Council of Europe containing revised proposals concerning Articles 1 - 6 and 9 - 11 of Convention ETS090 following discussions of the Working Party of the GMT - Rev on 19 February 2002 (document GMT - REV (2002) miscel 2).

The Chairman explained that the meeting had been considered desirable in order to provide for a good co-ordination among Member States of the EU as regards the ongoing review of the Council of Europe Convention on the suppression of terrorism.

Several delegations expressed their thanks to the Presidency for providing this opportunity. It was however recalled that the EU Working Party "COTER" had received an official mandate to co-ordinate the positions of the Member States in the field of terrorism, without prejudice to the decisions of the experts of the Council of Europe "GMT".

Some delegations entered a scrutiny reservation on the document provided by the Presidency, as they did not have enough time to examine it in their capital. The majority of the delegations insisted on reviewing the Convention preserving its original aim, without creating new incriminations.

The representative of the Commission suggested to examine whether the reviewing of the 1977 Convention should include a provision in order to clarify that the Convention does not prejudice the European arrest warrant when applicable, as specified in Article 25 of the draft Framework Decision on the European arrest warrant.

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The revised text of Article 1 to 4 as set out in Annex has been established in the light of the debates. A new text of Article 13 will be provided by the Presidency. The position of the delegations is reflected in footnotes to the text.

Changes are underlined as compared to text of the 1977 European Convention on the suppression of terrorism.

### 3. Other business

No other business was recorded.

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## European Convention on the suppression of terrorism of the 1977.

### Article 1

- 1<sup>1</sup>. For the purposes of extradition between Contracting States, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:
- a. an offence within the scope of the Convention for the Unlawful Seizure of Aircraft - The Hague, 16.12.1970
  - b. an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft – Montreal, 23.9.1971
  - c. an offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Personnel - New York 14.12.1973
  - d. an offence within the scope of the Convention Against the Taking of Hostages - New York 17.12.1979
  - e. an offence within the scope of the Convention on the Physical Protection of Nuclear Materials - Vienna 3.3.1980

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<sup>1</sup> Article 1 § 1 is identical to Article 1 § 1 as contained in the Council of Europe document GMT - REV (2002) miscel 2.

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- f. an offence within the scope of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, complementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft - Montreal 24.2.1988
- g. an offence within the scope of the Convention for the Suppression of unlawful Acts Against the Safety of Maritime Navigation - Rome 10.3.1988
- h. an offence within the scope of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf - Rome 10.3.1988
- i. an offence within the scope of the UN Convention for the Suppression of Terrorist Bombings - New York 15.12.1997
- j. an offence within the scope of the UN Convention for the Suppression of Financing of Terrorism - New York, 9.12.1999
- k. [possibility to include other conventions]
- 2<sup>1</sup>. [In so far as they would not be covered by the conventions listed under paragraph 1,] the same will apply, for the purpose of extradition between Contracting States, not only to the commission of those principal offences as a perpetrator but also to :
- [a) the incitement<sup>2</sup> to commit those principal offences or ;]

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<sup>1</sup> It was decided not to introduce a definition of terrorism acts as contained in the Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism or in the draft Council Framework Decision on combating terrorism (*COM/2001/0521 final. O J. C 332 E, 27/11/2001*). Although this wording was positively received, there was no full agreement on this text. Several delegations supported a proposal from the Belgian delegation consisting in deleting the words between brackets and adding a last sentence worded as follows : "..., provided that these acts are incriminated by the legislation of the requested State".

<sup>2</sup> The Italian delegation suggested to replace "incitement" by "instigation".

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- b) the attempt to commit any of those principal offences or ;
- c) the participation as an accomplice of a person or group of persons who commits or attempts to commit those principal offences or ;
- d) the organisation or directing others to commit those principal offences or ;
- [e) the intentional contribution in any other way to commit one of those principal offences by a group acting with a common purpose.]

## Article 2

1. For the purpose of extradition between Contracting States, a Contracting State may decide not to regard as a political offence or as an offence connected with a political offence or as an offence inspired by political motives a serious offence involving an act of violence, other than one covered by Article 1, against the life, physical integrity or liberty of a person.
2. The same shall apply to a serious offence involving an act against property, other than one covered by Article 1 , if the act created a collective danger for persons.
3. The same shall apply to an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

## Article 3

The provisions of all extradition treaties and arrangements applicable between Contracting States, including the European Convention on Extradition, are modified as between Contracting States to the extent that they are incompatible with this Convention.

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The Contracting Parties may conclude between themselves bilateral or multilateral agreements on extradition in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.<sup>1</sup>

## Article 4<sup>2</sup>

1. For the purpose of this Convention and to the extent that any offence mentioned in Article 1 or 2 is not listed as an extraditable offence in any extradition convention or treaty existing between Contracting States, it shall be deemed to be included as such therein. Contracting States undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.
2. When a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has not extradition treaty, the requested Contracting State may, at its option, consider this Convention as a legal basis for extradition in respect of the offences provided in Article 1 or in Article 2."

## Article 13

[New text to be proposed by the Presidency]<sup>3</sup>.

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<sup>1</sup> Article 3 § 2 is identical to Article 3 § 2 as contained in the Council of Europe document GMT - REV (2002) miscel 2.

<sup>2</sup> Article 4 is identical to Article 4 as contained in the Council of Europe document GMT - REV (2002) miscel 2, with the addition at the end of § 2 of "or in Article 2".

<sup>3</sup> The Presidency will propose a new text on the basis of the discussion. The new text will take into account the Portuguese concern about death or life penalty as a ground for refusal of extradition. It will also guarantee the full respect of the Convention on extradition.