



Council of the  
European Union

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DCL 1

CATS 15  
USA 16

### DECLASSIFICATION

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dated: 13 March 2003

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Subject: Draft agreement between EU and USA on judicial co-operation in criminal matters and on extradition  
- Procedure

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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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# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 March 2003**

**6692/03**

**RESTREINT UE**

**CATS 15  
USA 16**

## **NOTE**

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From: Presidency  
To : Article 36 Committee

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No. prev. doc. : 6404/2/03 CATS 11 USA 11 REV 2 CONFIDENTIEL UE

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Subject : Draft agreement between EU and USA on judicial co-operation in criminal matters and on extradition  
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1. The text of the draft agreements with the USA is at present classified CONFIDENTIAL EU. This classification is likely to be retained until the Council has taken the decision designating the authority that shall be authorised to sign the agreements on behalf of the EU. That decision is not expected before the date of signature of the Act of Accession of 10 States as new Members to the EU.

Even if as from that date representatives of the governments of those States will in principle be entitled to participate as active observers in meetings of the Council and its subordinate bodies, the arrangements for the interim period (i.e. the period between the signature of the Act of Accession and its entry into force), as agreed by the Council<sup>1</sup>, do not allow such participation in the deliberations of the Council or any of its subordinate bodies which deal with classified EU documents which have not been communicated to those States.

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<sup>1</sup> Doc. 13569/02 ELARG 348.

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EU classified information can be released to the acceding States only in accordance with the Council's Security Regulations and other measures taken by the Council as outlined below.

2. The Council's Security Regulations<sup>1</sup>, in their Part II, Section XII and Appendices 4, 5 and 6, contain detailed provisions on the release of classified information to third States.

More specifically with respect to the respect of security requirements when dealing with EU classified information in relation to the acceding States, the Council has decided<sup>2</sup> that Council documents classified as EU CONFIDENTIAL and EU SECRET will be communicated to the acceding States on a case by case basis in accordance with the procedures applicable to the release of EU classified information to third States. The Security Committee of the Council, set up pursuant to the Council's Security Regulations, has further elaborated the procedures for such release<sup>3</sup> and is about to recommend a further simplification.

As things stand, the release of such EU classified documents to the acceding States requires:

- i) A (positive) orientation from a Council preparatory body;
  - ii) A positive opinion from the Council's Security Committee (which may apply a 7-day silence procedure); and
  - iii) A decision (by simple majority) of COREPER to release the information.
3. The Presidency is of the view that the acceding States should be informed as soon as possible about the state of play of the negotiations with the USA and that in that context the text of the current versions of the draft agreements should be made accessible to them.

The Article 36 Committee is therefore invited to give an orientation, as referred to under i) above, as to the release of the draft Agreements with the USA to the 10 acceding States in the version set out in doc 6404/2/03 CATS 11 USA 11 REV 2 CONFIDENTIEL UE.

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<sup>1</sup> Council decision 2001/264/EC of 19 March 2001.

<sup>2</sup> See doc. 15171/02 ELARG 403 CAB 22.

<sup>3</sup> See docs. 14125/02 CAB 13 and 6847/03 CAB 2 ELARG 22.

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4. Is observed that the Council's Security Committee has agreed on the security co-operation levels to be applied to the acceding States<sup>1</sup> and that "agreements on security procedures for the exchange of classified information", as contemplated in point 7 of Section XII of Part II of the Council's Security Regulations, have been, or are in the process of being, drawn up with the acceding States. It is expected that such agreements will be in place with all the acceding States by the date of signature of the Act of Accession.

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<sup>1</sup> doc. 6847/03 CAB 2 ELARG 22.