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Subject: DRAFT COUNCIL COMMON POSITION on the United Nations
Convention against Corruption
- Asset recovery
= Preparation of the 2nd Conference of the Parties to the UN Convention
against Corruption on 28 January - 1 February 2008

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, 16 November 2007

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NOTE

From : Presidency
To : Article 36 Committee

Subject : DRAFT COUNCIL COMMON POSITION on the United Nations Convention
against Corruption
- Asset recovery
= Preparation of the 2nd Conference of the Parties to the UN Convention
against Corruption on 28 January - 1 February 2008

Delegations will find attached the draft EU Common Position on asset recovery in view of the second Conference of the States Parties to the UN Convention against Corruption.

The text takes into account the conclusions and recommendations drawn by the Open-ended Intergovernmental Working Group on Asset Recovery (Vienna, UNODC, 27-28 August 2007) and the discussions held at the EU coordination meetings that took place in Vienna on that occasion.

The draft Common Position was discussed at the MDG meeting of 24 October and 12 November 2007. Some scrutiny reservations are still left.

The Article 36 Committee is requested to agree on the draft Common Position and to forward it to Coreper/Council for adoption.

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DRAFT COUNCIL COMMON POSITION 2007/ /JHA

of ...2007

on the United Nations Convention against Corruption, preparation of the 2nd Conference of the Parties to the UN Convention against Corruption on 28 January - 2 February 2008¹

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 34(2)(a) thereof,

Having regard to the initiative of Portugal,

Whereas:

- (1) the European Union recognises that preventing and combating corruption is a key objective to be achieved worldwide.
- (2) a number of legal instruments have been adopted by the European Union with a view to developing a comprehensive EU anti-corruption policy both in the public and in the private sector,
- (3) in April 2005, the Council adopted a Resolution concerning a comprehensive EU policy against corruption with the aim of achieving further progress in preventing and combating corruption at European level and outside the EU and of defining those areas where further improvements are needed,
- (4) it is desirable that the existing international anti-corruption instruments are ratified and effectively implemented by all States without further delay,

¹ UK general scrutiny reservation

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- (5) several Member States are parties to the United Nations Convention against Corruption (UNCAC) while the ratification process is underway in other Member States,
- (6) the Council of the European Union is in the process of adopting the Decision on the conclusion, on behalf of the European Community, of the United Nations Convention against Corruption (UNCAC),
- (7) the Conference of the States Parties (COSP) at its first session in December 2006 agreed about the need to establish an Open-ended Intergovernmental Working Group on Asset Recovery to assist it in implementing its mandate on asset recovery,
- (8) the Open-ended Working Group has met in Vienna on 27-28 August 2007 and has produced a report¹ including conclusions and recommendations to be submitted to the second COSP,
- (9) the Council adopted a Common Position² on review mechanism and asset recovery on 29 November 2006,

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¹ Doc. UNODC: CAC/COSP/2008/4

² 15012/1/06 REV 1 CRIMORG 165 RESTREINT UE

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HAS DEFINED THIS COMMON POSITION:

Article 1

The Member States shall support the COSP in identifying and promoting effective methods facilitating the return of the proceeds of corruption, in accordance with its mandate.

Article 2

1. The Member States shall uphold the proposals for making the asset recovery procedure effective and expeditious, including the proposals laid down in the report adopted by the Open-ended Intergovernmental Working Group on Asset Recovery at its meeting on 27-28 August 2007.

2. The Member States shall, in particular, promote the initiatives aiming at:

a) developing among competent national authorities a common knowledge on the legal framework and best practices in the area of asset recovery, such as the establishment of a database collecting domestic legislations implementing the Convention, the preparation of model legislation to assist those in need of having expertise to implement the Convention and other guidance for practitioners, the drafting of a practical handbook providing guidelines for practitioners on how to achieve the whole asset recovery process;

b) facilitating the coordination of existing bilateral and multilateral initiatives in the area of asset recovery with a view to avoiding duplication of work and overlap with existing initiatives. A survey of all existing initiatives on asset recovery should be supported¹;

c) enhancing the cooperation and mutual trust among national and international counterparts involved in the asset recovery procedure. In this regard, the establishment of a network of focal contact points on asset recovery should be supported.²

¹ PL scrutiny reservation

² DE reservation on last sentence.

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d) promoting financial investigation skills of law enforcement agencies to improve the rapid identification and tracing of illicit financial transfers and other transactions.

3. Further to paragraph 2 b) above, the Member States welcome the joint initiative of the UNODC and the World Bank, known as the STAR initiative.

Article 3

The Council will adopt further positions on this matter, as appropriate.

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