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## DECLASSIFICATION

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Subject: Judicial cooperation in civil matters in the framework of partnership and cooperation agreements of the EU: agreements to be negotiated or under the negotiations already (April 2009) - Information paper over state of play

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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



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THE EUROPEAN UNION

Brussels, 28 May 2009

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JUSTCIV 136  
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## NOTE

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from: Services of the Commission  
to: Committee on Civil Law Matters (General Questions)  
Subject: Judicial cooperation in civil matters in the framework of partnership and cooperation agreements of the EU: agreements to be negotiated or under the negotiations already (April 2009)  
- Information paper over state of play\*

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This document presents the draft provisions on the legal cooperation (including judicial cooperation in civil justice area) in envisaged partnership and cooperation agreements that are being negotiated or are to be negotiated with third states.

- **RUSSIA**

Negotiations are at an early stage. The European Community's text proposal that has been transmitted to the Russian side and which is under negotiation is the following:

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\* This document corresponds to the working document by the Services of the Commission which was distributed during the meeting of the Committee on Civil Law Matters (General Questions) on 14 May 2009.

Article (I)

Legal cooperation

1. The Parties agree to develop and improve judicial cooperation in civil and commercial matters, primarily as regards the ratification and implementation, as well as-if necessary-the negotiation, of multilateral conventions on civil judicial cooperation and, in particular, the Conventions of the Hague Conference on Private International Law in the field of international legal cooperation and litigation as well as the protection of children.
2. The Parties agree to facilitate and encourage the arbitral solution of civil and private commercial disputes according to the applicable international instruments.

- **LIBYA**

Negotiations have not started yet. The European Community's proposal is the following (still not sent to the Libyans):

Article (I)

Legal cooperation

1. The Parties agree to develop judicial cooperation in civil and commercial matters, including as regards ratification and implementation of multilateral conventions on judicial cooperation in civil matters.
- 2.<sup>1</sup>
3. Cooperation between the Parties will also include mutual exchange of information concerning legal systems and legislation.

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<sup>1</sup> Paragraph on judicial cooperation in criminal matters.

- **UKRAINE**

JLS chapter agreed except for the wording on visa liberalisation.

Last version of the Article on legal cooperation:

"[9.] Legal cooperation.

Making full use of the relevant international and bilateral instruments and based on the principles of legal certainty and the right to a fair trial, the Parties agree to further develop judicial cooperation in civil and criminal matters.

The Parties agree to develop judicial cooperation in civil matters, in particular with regards to multilateral conventions on civil judicial cooperation and, especially the Conventions of the Hague Conference on Private International Law in the field of international legal cooperation and litigation as well as the protection of children. The Parties will also consider further developing bilateral cooperation in civil matters<sup>2</sup>"

- **REPUBLIC OF KOREA**

Negotiations are ongoing.

**Consolidated text after 3<sup>rd</sup> negotiating round – Brussels 16-17.3.2009**

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<sup>2</sup> The Ukrainian side agrees to the text of the article on condition that the Parties will conclude an agreement on judicial cooperation in civil matters. The EU side is prepared to start exploratory talks to examine the possibility of negotiating such an agreement (to note that Council negotiating mandate would be required for the proper negotiations to start).

## Article 31

### **Legal cooperation**

1. The Parties agree to develop judicial cooperation in civil and commercial matters, in particular as regards the ratification and implementation of multilateral conventions on civil judicial cooperation, including the Conventions of the Hague Conference on Private International Law in the field of international legal cooperation and litigation as well as the protection of children.
2. The Parties agree to facilitate and encourage the arbitral solution of civil and private commercial disputes whenever possible according to the applicable international instruments.

### **- PHILIPPINES**

Negotiations are ongoing (1<sup>st</sup> round in Manila February 2009).

The European Community's proposal is the following:

## Article 17

### Rule of law and legal cooperation

1. In their cooperation in the area of justice, freedom and security the Parties shall attach particular importance to the consolidation of the rule of law and the reinforcement of institutions at all levels in the areas of law enforcement and the administration of justice in particular.
2. Cooperation between the Parties will also include mutual exchange of information concerning legal systems and legislation. The Parties shall endeavour to develop mutual legal assistance and extradition.

- **IRAQ**

Negotiations are ongoing (7<sup>th</sup> Round Baghdad February 2009)

Proposal made by EC still under final review by both sides

**Article B**

**Legal Cooperation**

1. The Parties agree to develop judicial cooperation in civil matters, in particular as regards the negotiation, ratification and implementation of multilateral conventions on civil judicial cooperation and, in particular, the Conventions of the Hague Conference on Private International Law in the field of international legal cooperation and litigation as well as the protection of children.
2. The Parties agree to facilitate and encourage the arbitral solution of civil and private commercial disputes whenever possible according to the applicable international instruments.

- **MALAYSIA**

Negotiations has not yet started.

The European Community's proposal is the following:

Article 17

Rule of law and legal cooperation

1. In their cooperation in the area of justice, freedom and security the Parties shall attach particular importance to the consolidation of the rule of law and the reinforcement of institutions at all levels in the areas of law enforcement and the administration of justice in particular.

2. Cooperation between the Parties will also include mutual exchange of information concerning legal systems and legislation. The Parties shall endeavour to develop mutual legal assistance and extradition.

- **CHINA**

Negotiations are ongoing.

Article 4.2

Legal Cooperation

1. The Parties agree to develop judicial cooperation in civil matters, in particular as regards the negotiation, ratification and implementation of multilateral conventions on civil judicial cooperation and, in particular, the Conventions of the Hague Conference on Private International Law in the field of international legal cooperation and litigation as well as the protection of children.

2. The Parties will also consider improving bilateral (Chinese proposal: judicial) cooperation in civil and commercial matters.

3. The Parties agree to facilitate and encourage the arbitral solution of civil and private commercial disputes whenever possible, whilst allowing access to other alternative dispute resolution mechanisms, according to the applicable international instruments.

4.<sup>3</sup>

(The specific reference to arbitration in the civil law area follows a specific request in the negotiating mandate).

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<sup>3</sup> Paragraph on judicial cooperation in criminal matters.

- **THAILAND**

Negotiations are ongoing.

This is the text agreed after the last negotiating round (13.10.2008); next negotiating round first week of April in Bangkok.

Article 17

Rule of law and legal cooperation

1. In their cooperation under this Title, the Parties shall attach particular importance to the promotion of the rule of law. To their mutual benefit, the Parties will cooperate fully on the effective functioning of institutions in the areas of law enforcement and the administration of justice.

2. Cooperation between the Parties will also include mutual exchange of information concerning legal systems and legislation. The Parties shall endeavour to develop mutual legal assistance and extradition.

- **INDONESIA**

Negotiations were concluded. The text doesn't refer directly to judicial cooperation in civil matters.

Article 4

Legal Cooperation

1. The Parties shall cooperate on issues pertaining to the development of their legal systems, laws and legal institutions, including on their effectiveness, in particular by exchanging views and expertise as well as by capacity building. Within their powers and competences, the Parties shall endeavour to develop mutual legal assistance in criminal matters and extradition.



2. The Parties reaffirm that the most serious crimes of concern to the international community as a whole must not go unpunished and that those who are accused of them should be brought to justice and if found guilty should be duly punished.
3. The Parties agree to cooperate on the implementation of the Presidential Decree on the National Plan of Action of Human Rights 2004-2009, including preparations for the ratification and implementation of international human rights instruments, such as the Convention on the Prevention and Punishment of the Crime of Genocide, and the Rome Statute on the International Criminal Court.
4. The Parties agree that a dialogue between them on this matter would be beneficial.

- **VIETNAM**

Negotiations are ongoing (next round: April 2009).

Article 17

**[Rule of law and]<sup>4</sup> legal cooperation**

1. In their cooperation in the area of justice [, freedom and security]<sup>5</sup> the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of law enforcement and the administration of justice in particular.
2. Cooperation between the Parties will also include mutual exchange of information concerning legal systems and legislation. The Parties shall endeavour to develop mutual legal assistance and extradition.

Negotiations could start or re-start also with **SINGAPORE** and **BRUNEI**.

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<sup>4</sup> EU proposal, October 2007.

<sup>5</sup> EU proposal, October 2007.